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FORUM

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The first of two articles on our voting dilemma

How Democratic Are Our Representative Systems?

By William Redin Woodward and George H. Hallett

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THAT the problem of reconversion in America and of reconstruction in Europe would make staggering demands on the political machinery of democratically governed countries was generally foreseen, although few had the time or the information for predicting the manner in which difficulties would appear. A few premonitions, such as T. K. Finletter's emphasis on the dangerous lack of coordination between the American Presidency and the Congress, seem remarkably prophetic in the light of subsequent political events. Other points of inefficiency and frustration in our political machinery are much less widely discussed or understood. The inadequacies of the most commonly used systems of representation in America and the British Commonwealth are not fully realized. The possibility of improving representative institutions by adoption of proportional representation receives surprisingly little serious consideration.

The institution which is of central importance in any modern system of democratic government is the representative assembly: the political device which has made it possible to translate the democratic ideals of the town meeting into a practical plan for governing millions under a common self-rule. Whether the scale is national, state or local, representative assemblies are the primary instrument for fashioning the weight of popular opinion and will into governmental policy. Their proper functioning is vital to the health of the democratic process. As long as representative assemblies are effective in framing governmental policy in accordance with the preponderance of free public opinion as expressed in the secretly cast ballots of voters, the danger that people may some day bargain away their democratic freedoms for a mess of authoritarian pottage remains reasonably remote.

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When the people begin to regard their representative assemblies as mere appendages to executive institutions, whether Presidency, governorship, mayoralty[1] or a job-and-contract-dispensing political boss or "machine", then the danger becomes imminent that some turn of events will find the people too little in contact with the advantages of democracy to put up a determined fight for its preservation. If the proper functioning of democratic principles becomes lost in the inattentive development of poorly designed political machinery over the years, it becomes difficult for the average citizen to tell whether the resultant shortcomings are inherent defects of democracy or merely the results of institutions *not sufficiently democratic* in their manner of organization.

We are already awakening to the fact that the reform of our representative assemblies is the most urgent technical political task before us. One aspect of the problem, the characteristic log-jam of parliamentary business in such bodies, was earnestly and brilliantly tackled in the effort that resulted in the LaFollette-Monroney (Congressional Reorganization) Act at the last session of Congress. Efforts of a similar nature have established Legislative Councils and other useful machinery in the legislatures of a number of states.

But the effort to make the representative assembly not only businesslike in its activities but also a faithful instrument of the popular will through a properly representative composition has not been so successful. The Illinois legislature today is organized to "represent" the people of Illinois according to the census of 1900, although the distribution of population has vastly changed since that time. The political machinery of Illinois provides no redress for an under-represented majority. The Supreme Court of the United States has just decided that the federal Constitution does not provide that majority a remedy against minority rule. The perpetuation of such entrenched inequalities may sometimes, if sufficiently acute and prolonged, lead to a serious disturbance of the public order, as illustrated by the case of the Dorr War in Rhode Island in 1842. This was precipitated by a somewhat more intense but remarkably parallel situation. The Supreme Court also disapproved.[2]

The special weakness of the conventional system of representation illustrated by the case of Illinois lies in the fact that merely bringing legislative apportionment up to date, by rearranging districts, as may eventually be done in Illinois in the next 20 or 30 years, if the people are fortunate, will not cure the difficulty but only mitigate its symptoms. A

1 The Boston City Council is a case in point. It cannot, even by unanimous vote, override the Mayor's veto. It may be a better debating society, but it wields about as little real political power in Boston as the Supreme Soviet in the Soviet Union.

2 See the illuminating discussion by Sehlesinger in The Age of Jackson (1946), chapter XXXI, entitled "Majorities and Minorities." The law contemplates that those not adequately represented in government and therefore subjected to the domination of an unfairly constituted pseudo-democratic government should peaceably wait until that government see fit to reform itself, even though that might involve waiting decades or centuries. Thomas Jefferson and his colleagues of 1776 refused to wait so long for fair representation in the British Parliament, but that precedent is not fully applicable in cases not involving government from a geographically remote center.

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iew set of political vested interests ould arise and block the fair rep-esentation of a future majority by he same device. And that would equire another half century of effort nd waiting to correct.

And even when reapportionments re enacted, the erstwhile over-rep-esented groups exact concessions in eturn for their willingness to elim-iate part of the unfairness: usually . is an over-represented rural inter-st that preserves at least part of its nfair advantage (a pattern that xists in the organization of the up-er house of a great number of state gislatures and in the lower house f a good many). Thus in Cali-ornia two districts containing a ma-ority of the state's population to-ether elected only two out of the 0 members of the State Senate. hough New York State is newly apportioned after a long struggle, me State Senate districts are still wice as large as others in population nd the State Assembly is packed in vor of the county districts by con-itutional fiat. The newly adopted nstitution of Missouri actually rovides a formula for the progres-ve diminution of the representation f people in government according the density of population of the istricts in which they reside. It is metimes said that these devices are dopted in recognition of a superi-rity in rural morals, but it is much ore likely that the cities continued grow after state governments ere organized and therefore did ot have a fairly proportional voice the proceedings which resulted in e framing of these discriminatory easures.

The obvious purpose of representative institutions is to make it possible to apply the principles of the town meeting to communities too large to permit all the adult citizens to meet together to transact their public business. The equal voice of each citizen in a town meeting is embodied in the grant of one vote to each citizen in each decision of policy. But the fundamental equality of the town meeting becomes lost if the representatives elected by the people give substantially more representation per vote to some groups of voters than to others. Proportional representation seeks to preserve the basic democracy of the town meeting in representative institutions, by giving people so far as possible an equal representation as well as an equal vote.

SINGLE MEMBER DISTRICT

The now prevalent single-member district system falls far short of any such operation. The rather common instance of unequal districts which is so hard to correct is only one obvious instance of the shortcomings of the conventional system of representation in this country. Proportional representation properly applied solves the reapportionment problem by making apportionment fair and automatically adjusted at each election. It also overcomes other inequalities, for the single-member-district system distorts popular representation even when the districts are of equal population.

The basic fault of the usual system of representation, under which the electorate is divided into fixed constituencies each of which elects

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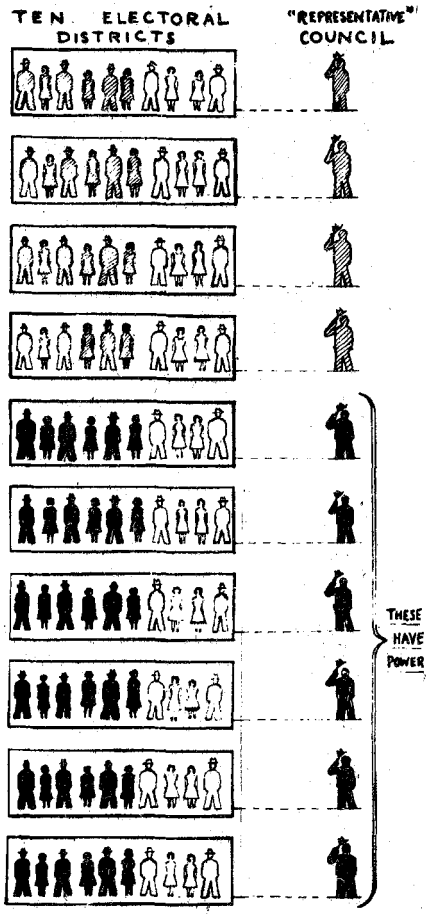

a single representative by a majority vote, lies in the fact that there may be large minorities which fail to be represented and which, if they should be represented, would entirely shift the balance of political power. This is illustrated in Figure 1, in which the 10 rectangles represent 10 electoral districts. Each symbol within each rectangle represents 1,000 voters, and there are 10 in each district rectangle, making 10,000 votes in each district. Each district elects one member of a "representative" council by majority vote.

It is assumed, for purposes of illustration, that the division of political opinion in the council results in a majority group of six members shown in black symbols, and a minority group, shown in shaded symbols. It is also assumed that the elections in the 10 districts were also decided by a vote in the proportion of six to four. The persons who voted for each of the elected council members are shown in symbols corresponding to the council members' symbols. Persons who voted for defeated candidates are shown by white symbols. These last are the largest single group of voters in the example, making up 40 per cent of the electorate. They are *not really represented at all,* for their political opponents won in their districts, and they have no control over the election of council members in any other districts. The voters shown in black symbols, whose representatives have full control of the government by virtue of their 60 per cent council majority constitute only 36 per cent of the electorate. The third group

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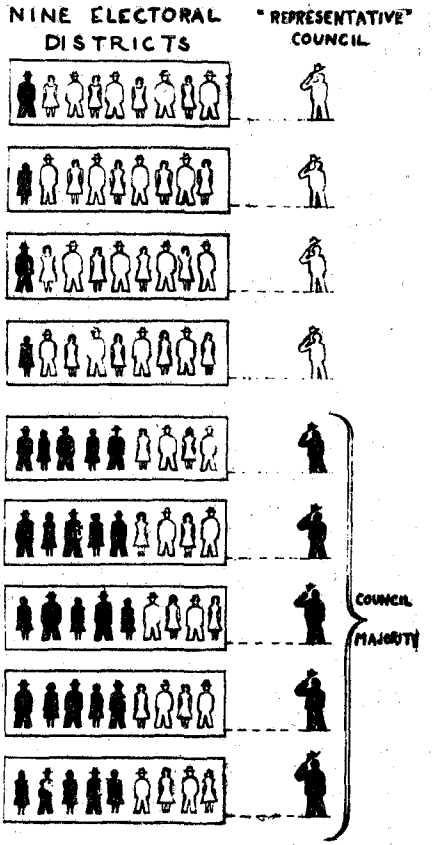
of voters amounts to only 24 per ent of the electorate but enjoys representation by 40 per cent of the ouncil.

The point of the demonstration is hat majority district elections com-ounded with majority council rule enerally lodge governmental con-rol in a minority of the electorate. And if the district elections are de-ided by a mere plurality, (without equiring a majority for election) s is usually the case in America and ngland, the chances of minority ule are greatly increased.

The extent to which power is hus concentrated in a minority de-ends upon the particular circum-tances of the political makeup of ie various districts. But it is not ierely a question of having a system ubject to great influence from hance factors of district boundaries nd distribution of political rength: the party in power is able manipulate district boundaries in rder to make these distortions of opular representation work in its vor. Such a situation, a common olitical practice, is illustrated in igure 2, which shows how a party aving control over the establish-ent of district boundaries can aintain itself in power after hav-g lost the backing of the popular ajority. This device has been no-rious for over a century: it is lled the "Gerrymander" after the ccessful scheme which gave Gov-nor Elbridge Gerry's party, with ss than a majority vote, almost ree-fourths of the seats in the assachusetts Senate in 1812.

In order to present a clear ex-ple of the effect of this device, it



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is assumed that all the voters adhere to one of two political groups, represented by black and white symbols respectively. Each symbol again represents 1,000 voters, and nine districts each with 9,000 voters are shown. The political group indicated by white symbols counts 52,000 voters, or 64 per cent of the whole, but it elected only four out of the nine council members (44 per cent). The council majority was elected by the party group counting only 29,000 voters or 36 per cent. The districts have been so aranged that a great proportion of the voting strength of the party indicated by white symbols is dissipated in surplus votes in the top four districts or else totally unrepresented by being wasted on unsuccessful candidates in the other five districts. The other party is favored by this arrangement, having its strength located where it will gain the most contests. Only a mere scattering of 4,000 votes are located in districts where they are unable to obtain representation. When election district lines are established, close scrutiny is paid to previous election statistics (in fact this is an important purpose of the tabulation of votes by precincts) by the chieftains of the party in power. The practice is so common that Senator Martin, ex-Governor of Pennsylvania, once referred to its use by his party in Pennsylvania as "the good old American way." Professor Theodore W. Cousens writes in a textbook on American politics that the Gerrymander is "attempted to a greater or less degree in nearly all legislative apportionments" and adds, "it is obvious that the Gerrymander flourishes because the minority in each district is not represented."

Proportional representation assures control of a majority in governing assemblies by a majority in the electorate, thus carrying the democracy of the town meeting into representative institutions, by representing all voters equally, so far as possible, within the limits imposed by the number of representatives to be chosen. Minorities are not emphasized, but they are accorded their proportional share of the total representation so that their views may be heard. No matter which way the representative assembly divides on the various questions presented to it even across party lines (as is so frequently done in Congress and many state legislatures), the parliamentary majority will always be composed of members elected by a popular majority. Due representation is assured not only to minority parties but also to minorities within parties and independent minorities that do not wish to be represented on party lines (sometimes an influential force in local government).

TWO TYPES

The basic aims of proportional representation are approached by two types of electoral systems. One, used chiefly in continental Europe where a multiplicity of parties has generally existed whatever the electoral system, seeks primarily to represent party groups in proportion to the vote their candidates attract. The other, used chiefly in English-speaking countries, particularly in municipal government but also in

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few instances (as in Ireland and Tasmania) for national or state government, is designed to give full scope to voters whose preferences do not strictly follow party lines. It makes use of a preferential ballot and a device known as the "single transferable vote" devised independently about a century ago by a Danish mathematician and statesman, Carl Georg Andrae, and an English barrister, Thomas Hare. It is often known as the Hare system. The directness and completeness of the Hare system will be better appreciated after a consideration of the modifications of the other system which have generally been found advisable to satisfy modern discriminating voters.

The European system of proportional representation in its simplest form simply allocates seats to parties in proportion to the number of votes cast for party tickets. Each party draws up a list of candidates in an order of preference decided by some party committee or council. The seats allotted to it after the election are filled from the top of the list on down. Such an arrangement was used in Germany under the Weimar Republic (1919-1933) and in a few other instances. In most European countries using party list systems, additional modifications were found desirable to give the voters some opportunity to express preferences between individual candidates, instead of having to choose between entire lists. The fact that nominations of lists were usually not subject to effective rank and file control (there has been nothing comparable to American primary elections) made such permissive modifications of the list system of voting most desirable.

The extent to which the list system has been modified for this purpose varies a good deal from country to country. The Belgian system provides for the indication of one individual preference on the list ballot. If no individual choice is expressed, the ballot counts for the first candidate on the list who needs it.

There are a variety of other modifications that have been used, some permitting the voter to rearrange the list he votes for as much as he wants (as by the use of the principle of the single transferable vote under the Swedish law adopted in 1920); some permitting the voter to split his vote into fractions cast for different lists; and also some permitting a rather unsound scheme of scattering a certain number of individual preferences among different lists while at the same time casting a vote for a particular list.[3] These schemes are not always fully used. Thus in France no account is taken of modifications of individual list ballots unless at least half the ballots cast in the district for the list in question bear modifications of the order of listing (indicated by numerals after the names). It is interesting to note that the provision for permitting modified ballots was enacted in France after only two elections (in 1945 and 1946) under a plain list system permitting no deviation from the lists as drawn up.

Party list types of proportional representation systems are in use in a large number of countries, princi-

[3] For a detailed description of various European list systems see "Proportional Representation" by Hoag and Hallett, pp. 412-456.

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pally Austria, Belgium, Czechoslovakia, Denmark, Finland, France (since 1945), Germany, Greece, Italy, the Netherlands, Norway, Sweden and Switzerland. Since the war, Germany has indicated a preference for a return to its pre-Hitler proportional system, which has been permitted except in the British zone. One of the Laender in the American zone, Württenberg-Baden, introduced liberalization of that system along the lines of the Swiss system. Although the list system has not been used in North America and is used in only a few instances in South and Central America, the first fully developed explanation of its basic principles was published in Philadelphia in 1844 by Thomas Gilpin. It was worked out about the same time independently by Victor Considerant in Switzerland.

SINGLE TRANSFERABLE VOTE

The modifications which it is necessary to add to the list system to satisfy voters interested in voting for individual candidates as well as parties logically lead to the consideration of the Hare system based on the single transferable vote. It starts from consideration of individual preferences between candidates, permitting each voter to indicate in a simple manner the order in which the candidates rank in his preference, and works out a method of finding out the most representative group of candidates on the basis of those votes. In so doing, it not only does justice to parties, but also to all other groupings which the voters consider important, such as factions within large parties, cross-party alignments having appeal to independent voters and independent candidacies. And it has done so while preserving a two-party system or a close approach to it whenever the voters have so desired, as in Ireland and Tasmania, and in some cities, such as Cincinnati and Yonkers. In some instances, especially in local government, it has registered the backing of large groups of independent candidacies or minor parties, as in New York City. Sometimes an intermediate effect has come about, resulting in a cross-party coalition of members of the major parties or even a unanimous agreement to back a city manager with a nonpartisan program, as in Cambridge and Lowell, Massachusetts. In short, it has given each community the sort of representation that particular community wants.

The counting of ballots in this system of proportional representation is not more complicated than is required in the better developed list systems. It requires a few more steps than the ordinary single-member-district election, but it simplifies the process of election by combining the party primary contests and the contests between parties into a single election, with a corresponding saving in time and effort to the voters and candidates. Even if this were not so, more democratic representation should be well worth a little extra time and trouble in counting ballots.

QUOTA

The first step in the count is to determine the *quota* of votes necessary for election. This is ordinarily done by dividing the total number of

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valid votes in the district, (which may be the whole area covered by the election in the case of a city), by the number, larger by one than the number of representatives to be chosen in that district, and then taking the next larger whole number. Thus if there are 50,000 votes cast and five representatives are to be elected, we divide 50,000 by 6, obtaining 8,333 1/3, and then take the next large whole number, or 8,334, which is the quota. The quota is designed to be the *smallest* number which will insure a candidate's election because it will not permit more than the intended number of candidates to obtain that many votes.

After the quota is determined, the ballots are tabulated (and usually arranged in stacks) according to the first choices marked on them. Any candidate obtaining a full quota of votes, or more, is declared elected. Now if a candidate should get two or three times the necessary quota of votes, it would be obvious that enough people voted for him to elect two or three candidates if they had spread their votes. It follows that whenever more than a quota of votes is concentrated on one candidate, the voters in question are entitled to some further amount of representation if the result is to be truly proportional. Therefore, a number of ballots equal to the excess over a quota is selected (either by a tamper-proof sampling system or by a selection strictly proportional with respect to the second choices). These surplus ballots are transferred to the next choices respectively marked on each such ballot. When all such surplus votes (if any) have been transferred to subsequent choices, assuming the desired number of candidates do not yet have a quota of votes in their favor, the candidate with the smallest number of votes to his credit is eliminated from the race. Then votes previously standing in his favor are distributed among the remaining candidates by transfer, following the order of preference indicated by the voter on the ballot in each case. This is repeated as many times as necessary until the proper number of candidates have reached the quota or until only that number are left. Whenever any candidate reaches the quota, he is declared elected forthwith. If, when a ballot is to be transferred, the next choice marked on it is for a candidate already elected or eliminated, that choice is skipped and the next choice is followed instead.

Under this system, no voter need be afraid of wasting his vote on some candidate not popular enough to obtain a quota of votes. He may safely give his first choice to a candidate whose popularity he cannot estimate, and then indicate subsequent choices to fall back on if his first choice loses out. If the first-choice candidate proves to be insufficiently popular to secure election, then the ballot will not be wasted but will still be available to help elect some second or later choice as against other rivals, and thus enable that voter to contribute to the election of a representative. Of course, if the first choice remains in the running and is eventually elected, no attention will be paid to the subsequent choices, for each

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voter is entitled to but one vote. If it counts for the first choice, it can count for none other. The operations of the count under this system do not give any voters any additional votes, but merely *transfer* their votes to subsequent choices when they would otherwise be wasted.

SURPLUS VOTES

When the last quota is filled, there will naturally be a certain number of votes left over, but it will necessarily be less than the quota, because the quota was purposely calculated that way. The larger the number of representatives chosen in a single district, the smaller will the quota be in proportion to the total number of votes; and the smaller the quota, the smaller will be the residual unrepresented proportion of voters. In order that as large a proportion of the people as possible may be represented, elections should be either at large or by districts of considerable size (big enough in most cases to elect at least five representatives). In practice, 80 per cent to 95 per cent of the voters are represented under this plan, whereas the single-member district system often succeeds in representing little more than, (sometimes even less than,) a bare majority. Indeed in practice under the Hare system a very large proportion commonly see their first choice elected.

Of course a certain number of voters may fail to indicate enough choices to permit their votes to be given effect. But they are usually not a large proportion and they normally fall within the unavoidable less-than-a-quota proportion of unrepresented voters. If there should be many such individuals, the last one or two candidates to be elected may be elected without quite a full quota by elimination of their rivals. But this possibility that some voters may not fully exercise their franchise and leave others to determine the contest, does not affect the fairness of the result. It is not more significant than the fact that some voters may carelessly cast spoiled or blank ballots and others eligible to vote may stay away from the polls. If some citizens do not bother to make the very slight effort necessary to express their preferences, no system can be expected to read their minds!

The first principles which later developed into the Hare system were worked out in England and Australia before the list system was formulated. Neither system of proportional representation was widely known before the middle of the Nineteenth century. In the writings of Thomas Hare and especially in the great essayist and political thinker, John Stuart Mill, the Hare system recieved its most brilliant advocacy. But for a while the appearance of greater simplicity (true only for the less satisfactory versions) led politicians to prefer the list system, when they considered proportional representation at all.

The turn of the century saw the list system well on its way to establishment in continental Europe (where the absence of a two-party dominance made non-proportional systems particularly unfair), but the Hare system shortly began to make steady, if modest, progress in the English-speaking countries. It is

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now used for all elections in Eire, for important state elections in Tasmania, New South Wales and three city districts in Western Canada, for city elections in New York, Cincinnati, Toledo, Wheeling, Yonkers and several smaller American communities, and for school as well as city elections in Cambridge and Lowell. Some principles of the Hare system have been incorporated as modifications in some modern list systems. The Hare system has recently been introduced in municipal government in the Netherlands, where the list system is more generally used. The greatest single post-war extension of proportional representation, however, the adoption for national and some municipal elections in France replacing the single-member district system used during most of the life of the Third Republic, involved selection of a list system along the lines of the usual European pattern.

Proportional representation now has the benefit of a full century of thought and a good half-century of experience. That experience will be the subject of further analysis in the February *Forum*.[4] It offers great hope for the development and strengthening of democratic institutions, for whenever democracy as we know it seems to fall short of its high purposes, it teaches us that the remedy may lie not in a partial abandonment of democratic principles looking towards executive prerogative, but in making governments more representative and hence more democratic.

4 See also "Proportional Representation—The Key to Democracy" by Hallett (National Municipal League, 299 Broadway, New York City, 25 cents).

• A man picks a wife about the same way an apple picks a farmer.
—Gilcrafter

• Middle age: that interlude of disturbing doubts when the thumping sound could be a loose fan belt in the car, or your heart.
—Richmond Times-Dispatch

• A Protestant clergyman, attired in black, was walking down the street when he met some Catholic boys. One of the boys raised his hat and said: "Good morning, Father".

The other boy nudged him and whispered: "Quiet, stupid, he ain't no father, he's got a wife and three kids."

—Pure Oil News

• "As long as I am governor, the Ku Klux Klan or any group like it will not hold a meeting in the state of New York. There will be no Bilboism here".—Governor Thomas E. Dewey.

"There will be no deweyism in Mississippi", Bilbo spat in return. (So there!)

• A missionary was returning from Patagonia with a case of Patagonian skulls for scientific study. The customs official opened the chest and informed the missionary that the skulls would have to be classed as animal bones and taxed at so much per pound.

The missionary got on his high horse. The Way-bill was revised to read: "Chest of native skulls. Personal effects, already worn".
—Protestant Voice

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A reply to Professor Tappan from the bench

The Juvenile Court

By Nochem S. Winnet

Judge of the Municipal Court of Philadelphia
Secretary-Treasurer, The Pennsylvania Council of Juvenile Court Judges

THIS article might have been titled "The Child in Court," But Professor Paul W. Tappan used that title in December's *Forum*. The subject matter is the same. I, too, am concerned with how the child fares in court. It is my opinion he fares rather well considering what happened to him before the advent of the juvenile court. His constitutional rights are not violated; he is not subjected to Star Chamber proceedings; he is not sent to reformatories indiscriminately. He is not generally subject to punishment rather than rehabilitation. He is not usually ruined by contaminating associations in institutions to which he is committed. He is not the poor pawn of a probation officer's report based on neighborhood gossip.

Before discussing what the juvenile court *is not*, perhaps we should state what *it is*. But I cannot overcome a difficulty in definition which Professor Tappan has overcome. When one speaks generally of the juvenile court, one is not speaking of *a* court but of several hundred courts. It would be as unfair for me to describe it in terms of its virtues as it is unfair to describe it in terms of some of its failures. Rather, I must describe it in terms of what it is attempting to do. If one is asked to define the government of the United States, it must be defined in terms of its objectives as laid down in the Constitution and in the general purposes for which it was organized.

The juvenile court concerns itself with the problems of children usually under the age of 16, sometimes under the age of 18, and infrequently under the age of 21. It is a court which has eliminated our contentious criminal procedure. There is no place in it for the forensic and oratorical art of lawyers. It does not limit its inquiry to the proof of innocence or guilt. The juvenile court seeks the cause of delinquency so that the treatment may be rational.

The distinguishing features of the juvenile court are: (1) children are not dealt with as criminals but as individuals in whose future welfare the state is interested; (2) neither retaliation for the offense nor punishment as an example to others underlies the procedure. The purpose of the court proceeding is to save the child. (3) The hearings are conducted, if possible, in a different place and at a different time from the adult criminal proceedings; (4) the procedure of the court is informal and private. Technical rules of evidence are not insisted upon. The procedure is neither contentious nor inquisitorial. Counsel

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for the defense is rarely employed. The judge, the probation officer and the parents are interested in the personality of the child and the factors which led to delinquent behavior in order that they may plan a program of treatment and protection. Juvenile court procedure is thus equitable in nature; (5) the offense itself is of secondary importance, being considered merely symptomatic of an underlying personality maladjustment; (6) the extra legal data, such as, reports of the probation officer, the school and other public or private agencies or individuals, are regarded as essential; (7) children are detained in separate quarters, and, if commitment is necessary, the child is sent to an institution for children.[1]

The whole juvenile court movement is 50 years old, an infant age compared to the traditional criminal court. Consequently, there are few courts which have realized the full potentialities involved. The outstanding courts are due to a great extent to the personalities of the presiding judges, such as, Charles L. Brown, Judge of the Municipal Court of Philadelphia; Gustav L. Schramm, President Judge of the Juvenile Court of Allegheny County, Pittsburgh; Paul W. Alexander, Juvenile Court, Toledo; Victor B. Wylegala, Buffalo; Harry L. Eastman, Cleveland; Frank H. Bicek, Chicago; Walter H. Beckham, Miami; James Hoge Ricks, Richmond; Rulon W. Clark, Salt Lake City.

It is true, the juvenile court does not afford a jury trial to the accused. Nevertheless, its hearings have been held consistently to be constitutional. This is neither the time nor the place to enter into a discussion of the legal question of the constitutionality of the juvenile court acts. But before too many tears are shed for the disregard of the child's constitutional rights, let me cite the case of John, age 18, who was charged with stealing an automobile, and who was, therefore, entitled to a jury trial. As for mental maturity, John might have had difficulty in passing a test for 14-year olds. He pleaded not guilty. The identification was made by a policeman. His lawyer, however, pleaded with the jury not to condemn this young man to jail on the doubtful word of a policeman. He was acquitted. He left the court room an arrogant hero. He was too smart for the law!

We cannot afford the luxury of carelessly allowing our children to be under the impression that it is easy to "beat" the law.

I subscribe wholeheartedly to the principle that rather nine guilty men escape than one innocent man be convicted. But, it should not apply to children. It is highly improbable that an innocent child will be adjudged a delinquent, and the interest of any community in the welfare and future of its children generally, far outweighs the risk here implied. It is important for our children to realize that the law is not to be flouted. Neither technical rules of procedure nor of evidence, nor impassioned addresses of counsel, nor the sympathies of a jury, will set them free for further wrongdoing.

1 In this statement I have borrowed heavily from Nathaniel F. Cantor's *Crime and Society*, Henry Holt and Company.

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Nor are children subjected to Star Chamber proceedings in their hearings before juvenile court judges. The child can be represented by counsel. His parents are usually in attendance. Furthermore, the charge of Star Chamber proceedings is hardly justified in this day when parents and citizens have access to the press and to civic and social agencies.

Professor Tappan complains that the juvenile court is too much persuaded by the complaints of parents who "reject their children." "Often the problem is assumed in advance to exist by very reason of the child's presence in court . . . often the court is easily induced to adjudicate."

The experience of the writer, and that of many of his associates, in thousands of cases would seem to be the contrary. No judge worth his salt assumes the problem to exist by the very presence of the juvenile in court. Where cases occur in which parents reject their children, the court tries to see what can be done to save the home. If that cannot be done, then some placement is obviously desirable. This does not mean that the child is sent to a reformatory. All community resources are first exhausted before a commitment to an institution is made.

If commitment to a reformatory is necessary, does that necessarily mean that the child will be subjected to contaminating influences? There can be no argument on the point that the rehabilitation programs of most of our corrective institutions are inadequate. But to picture them as cesspools of iniquity and schools of corruption is to forget what has transpired in the past generation and to ignore all the advances that have been made. It is wrong to assume that we have progressed no further than the institutions of Dickens' day. Most of our institutions employ psychologists, psychiatrists and medical staffs. Most of them have educational programs. That some of those committed may acquire bad habits cannot be denied. Yet, to accuse the institutions generally is unfair.

And finally, there is the accusation of Professor Tappan that our children are given hearings in our courts on insignificant offenses. The child, he says, should be treated by juvenile courts only after committing some clear cut and significant offense, violative of important community interests.

CRIME PREVENTION

To accede to this criticism would deprive the juvenile court of its great usefulness as a crime prevention agency. Only too often the court gets the opportunity to treat the child after serious offense has been committed. I have in mind some boys, in a neighboring community, who were responsible for a series of fires that destroyed many barns, livestock and a home. Very few of the boys had records of delinquency prior to their appearance in court. Because of the seriousness of the offense, and the aroused public opinion, the juvenile court in which they appeared felt compelled to commit these youngsters to industrial schools. A study of their offenses indicated that they were due primarily to the fact that the boys

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were permitted to loiter at the fire station. They craved excitement and spent hours waiting for the fire bell. So, they saw to it that it rang.

Would it have been violative of their rights if, on petition, they were brought into the juvenile court on the charge of delinquency (since it was detrimental to their morals) for congregating at all hours at this fire station? Some of the parents, and almost all the neighbors, seemed to have regarded it as an evil, and yet nothing was done about it. If they had been apprehended in time, there is very little likelihood that they would have landed ultimately in industrial schools.

Another case comes to mind: Steve, age 12, was picked up by a policeman when he was found sleeping in an automobile. When the matter was finally brought into the juvenile court, it was revealed that he was a chronic runaway. The cause seemed to be his rejection of his stepfather who, in spite of all attempts, could not win over Steve. The court concluded it would be best to send Steve to a farm where he wanted to go. This gave the social worker an opportunity to work with him and the stepfather an opportunity to win him over. None of us would say that Steve had committed a "clear cut and significant offense, violative of important community interests." But should anyone criticize the juvenile court's part in the proceeding and the steps taken to rehabilitate the boy?

It is true that "often good intentions have been more common than fair implementation." But good intentions there are and must be. Fair implementation will come after the public and legislative bodies realize the potentialities of the juvenile court. Ultimately the stigma of criminality which attaches to its hearings will disappear. It will become a court concerned with the problems of youth.

The judges themselves are conscious of their responsibilities. Each one of them is anxious to become a "wise and understanding father rather than the stern, if not vengeful, agent of outraged law." Most of them are struggling to improve community resources for children, and to close the gap that exists in caring for children who have been in the court. Most of them employ psychologists, psychiatrists, social workers and probation officers to guide them in making a proper disposition of each case. As a group, they are banding together for the purpose of exchanging experiences and learning how best to discharge their difficult duties. The National Council of Juvenile Court Judges has 427 members. There are, in addition, State Councils of Juvenile Court Judges. In Pennsylvania, 56 judges have formed such a Council whose only purpose is to become better acquainted with techniques that serve youth. The history of the administration of criminal law, over hundreds of years, can point to few such groups. This is the best evidence that ultimately the juvenile court will realize its objectives in serving both the child and protecting the community.

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A lesson in comparative psychology

Don't Label Argentina!

By Allison Williams Bunkley

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TO most students of politics, the "Argentine problem" has become an important one and a bewildering one. Radical changes in policy have come in rapid succession from both the United States Department of State and the Argentine Foreign Office. The public is told one day that it is faced with a "Nazi menace" in South America, and the next day it is advised that its government is trying to conciliate a "duly elected democratic government" that has been angered by a policy of interference.

The difficulty of the American public in thinking about Argentine politics is due to two important fallacies. In the realm of Argentine popular psychology, we fail to make some very valuable comparisons with our own popular psychology of the past. Such a comparison would allow us to understand the Argentine problem better by putting it in terms of our own experience, and it would allow us to make sympathetic allowance for mistakes where such allowance is due. In the realm of political thought, however, we make too close an analogy between the Argentine political forms and those of Europe and North America. We attempt to label them with *our* terms instead of understanding them in *their* terms.

The features of Argentine foreign policy that we have condemned most heartily in the past decade have been: (1) her failure to join the war against the Axis Powers; (2) her independent attitude in regard to her right to deal with the Axis as well as with the Allies; (3) her delay and opposition to the ratification of the Act of Chapultepec and the San Francisco Resolutions.

These features of Argentine foreign policy that we have so vehemently opposed may seem deplorable to the United States and to the democracies of the entire world, but they should be understandable to the United States above all other nations. It was we in the United States who refused to enter the First World War in 1914. It was we who insisted upon our right to deal with the Germans as well as with the English and French. It was we who revealed to the world that a large element of our population was pro-German before we were drawn into the war ourselves. The large majority of our people between the years 1914 and 1917 was not interested in the ideals of the Allied nations. It insisted that such conflicts did not concern it, and it complained violently when the British blockade stopped trade with Central Europe. We were finally drawn

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into the war, which was by then three years old, by continued attacks upon our citizens and upon our honor. There were no such attacks upon Argentine citizens nor Argentine honor.

COMPARISON

Once more in this war, in the very war that many of us condemn Argentina for not entering, we were not drawn in until we were again attacked. The "Neutrality Act" and the "Cash and Carry Act" are historic examples of our early attitude toward the Second World War. Argentina had no Pearl Harbor; she had no Bataan or Corregidor. She entered the war when it seemed politically profitable to do so.

After the First World War, the United States was not yet one of the two great powers. It was not yet sure of its control of international politics or of international power. So when the League of Nations was proposed, it was the United States that shied away and refused to join. It was too jealous of its right to "do what it wanted". Just as it had insisted upon its right to trade with the Germans in 1914, it insisted upon its complete freedom of action in the future. Just as the frontiersman had insisted upon his right "to carry a gun" and had insisted that no law was above him as an individual, the United States insisted on its right "to carry a gun"; it insisted that there was no authority that could limit the complete freedom (sovereignty) of a nation.

While reading the debates in the Argentine Congress in recent weeks, I was struck with the many analogies that could be drawn between the South American legislative body of today and our Senate after the last war. As the Act of Chapultepec was hashed out in a 21 hour, hard-fought session, the "Nationalist" Senators declared that Argentina "would never abandon her sovereignty." They traced the tradition of Argentina as an independent sovereign nation; they referred to her founding fathers, to the heroes of her independence. They argued for the right of Argentina to do "what she wanted, how she wanted, and when she wanted," for Argentina was a "sovereign nation."

This comparison that I have made, between the isolationist psychology of the historical United States and the psychology that has produced many of the things that we have opposed in Argentine politics, is not intended to excuse either our own position in the past nor Argentina's position in the present. It is merely intended to make the Argentine problem more understandable to us by describing the Argentine psychology in terms of our own national experience.

Like ourselves, Argentina was originally a nation of pioneers who built their country out of a wilderness and won their independence from the Old World. As a result of the parallel background, the Argentine people have many of the same faults in their national psychology that we have suffered. To understand them, we must not label their failure to enter the war or their opposition to the Act of Chapultepec as "pro-Nazi" and leave the

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problem at that, for that would only reveal a small part of the picture. We must think of the Argentine nation today as we would think of a frontiersman,—still jealous of every ounce of his freedom, still reluctant to abandon any liberty to the authority of a community or a society.

This exercise in comparative psychology of nations might be taken a step further if we compare the political temper of domestic affairs in Argentina today with the temper in a North America of an earlier era. Argentina is alive with politics. The average Argentine thinks, speaks and feels politics in his own life. He is peculiarly awake and aware of the important part he is playing. Whether he is a "Peronista", a "democrat", or a "communist", he feels that he is a part of the political drama now being played in his country, and he is not willing to leave it to professional politicians or to his more civic minded neighbor.

As one walks down Calle Florida, the main street of downtown Buenos Aires, one is faced on every side with manifestations of one political view or another. A boy on one corner will be selling copies of the Act of Chapultepec, crying out to the crowd that each and every man and woman must have a copy in order to understand the part his country is playing in the affairs of the world. On the very next corner, there will be another group of boys selling a Nationalist paper. They are crying to the passing crowd: "Extra! Read all about your betrayal by Congress! Extra! Congress sells country to Yanqui imperialism! Extra! Argentina becomes a colony of the Yanquis with the signing of the Act of Chapultepec!"

The forces of the Nationalists are strong, and everywhere they are active. They gather in crowds made up of workmen, *descamisados* (shirtless ones) and school boys. They shout of the sovereignty of Argentina. They decry the "betrayal" of Congress. They warn of "Yanqui imperialism."

The Peronistas are not, however, the only political groups that express their views. The opposition cannot be so open, but it is equally dramatic in demonstrating its stand. One walks along the streets downtown and sees small groups of men and women standing and looking silently up at a lamp post, a balcony or a telephone pole. Since the revolt in Bolivia that ended with the hanging of Villaroel, this has been the manner in which Argentine oppositionists signify that they expect Perón to be hanging soon from a lamp post, a balcony or a telephone pole.

When Perón made his wife, the former Eva Duarte, the Chief Nurse of the Republic, there was great indignation among the forces of the opposition. Someone let a stray bitch loose on Calle Florida—the bitch was dressed as a nurse. In one of the suburbs of the capital, a cow was found walking down the street dressed as a nurse. Elsewhere, a monkey appeared in the same attire. The use of animals in such a politically symbolic manner soon caught on, and it was not long before a pig was found walking down Calle Florida with a sign, "Molinari" around its neck. The pig was so

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covered with grease that the police could not catch it. Molinari is Perón's chief henchman and backer in Congress.

As one American visitor to Buenos Aires commented on these manifestations of Argentine politics, "It's pretty rough, and it's pretty raw." Yes, it is raw. The bitch, the pig and the cow were certainly manifestations of crudity as well as of political views. But, at the same time, there is something healthy about all this interest and activity in politics. We in the United States have almost forgotten the real meaning of popular interest and enthusiasm in political problems. In a way, ours is a tired democracy where most citizens leave the politics up to a professional politician or a neighbor who might have a special liking for the "filthy business."

JACKSON

To appreciate fully the situation of Argentine politics today, we must look all the way back to the age of Jackson in our history. Then the people were excited about politics. They may have been a little raw, but they took part in their government, and they showed what they thought. They called Jackson "King Andrew I". The "better classes" looked down upon him as "common", as a demagogue. They hated him because in his own modest nineteenth century way he was "soaking the rich to help the poor." There was even a scandalous woman in the White House in the age of Jackson.

In all this comparison of the political psychologies of the United States of the past and the Argentina of the present, the reader has doubtless noticed one glaring discrepancy. There is a basic difference between the governments of Jackson and Wilson on the one hand and Perón on the other.

We said that the second fallacy in North American thought about Argentine politics was its tendency to identify Argentine political forms with those of Europe or the United States. It insists upon applying the labels of "democracy", "nazism", "fascism", and "communism" to the various political forms that appear in Spanish America. When it asks itself what the difference is between the governments of Wilson and Jackson and the government of Perón it tends to say that the latter is Nazi or has Nazi influences, or it retreats to the broader term of dictatorship. Such a procedure does not help to understand the particular problem of Argentina. It is not democratic, Nazi, Fascist or Communist. It is a dictatorship, but the question is: why?

In studying Argentina, as in studying most countries of Spanish America, we must look to the inevitable influence of the Spanish tradition of individualism in society and art and of personalities in politics. Spanish history has been one in which the personality has always been the fundamental value, always above any abstraction such as law. Visitors wonder at the complete lack of traffic lights in Buenos Aires. The total absence of automatic controls of traffic can be traced back to the time when the government attempted to install lights at the street corners. The Argentine people flat-

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ly refused to obey them. Said the Buenos Aires taxi driver: "I will not be controlled by a mechanical gadget." His personality was more important than any abstraction connected with red and green lights. He would not submit his personality to the rule of machines or law. In Spanish American history, the politics of personality of the Spanish tradition has been in continual conflict with the politics of law adopted from the Anglo-Saxon and French traditions. The pattern of Argentine politics has been one of a pendulum in which the form of government swung back and forth from government by personality to government by law.

To understand this government by personality we must distinguish it from all the "isms" that we discuss in regard to European politics. Democracy (in the sense that we know it in the so-called "western democracies") is a government in which *the idea of law* is above the individual. Nazism is a government in which *the idea of race* is above the individual. Fascism is a government in which *the idea of nation* is above the individual. Communism is a government in which *the idea of class* is above the individual. Personality politics has *no idea above the individual.* The personality of the political leader is the center of the political mechanism. To him is owed the loyalty. He is above the individual. The government of Argentina today is but another form of personality politics. Like the government of Santa Anna, Rosas, or a score of names well-known in Spanish American history, the government of Perón is personal, but it is not Nazi, not Fascist, not Communist.

This brings us to the last and most debated question concerning the Argentine political problem today—the question of action. What action if any should the United States take in regard to Argentina's idea of isolation and in regard to Argentina's government of personality politics? In answering this query, we can again benefit by a lesson from our own history.

INTERVENTION

We can look back at the history of two great presidents who suffered by their attempts at intervention. Woodrow Wilson, believing that his ideas were correct, maintaining a burning faith that his side was right, intervened in state politics and asked his country to return a Democratic Congress that would support him. The answer? "Stop sticking your nose into our business!" A Republican Congress was elected. Franklin Roosevelt, again believing fervently in his own ideas, again sure that his side was right, followed Wilson's path. His was a stronger position. Just elected to the presidency for the second time by a record vote, with Congress at his beck and call, he travelled South to "purge" Senator George and other lesser opposers. The result? "Attend to your own business!" Senator George and his colleagues were re-elected.

We can go far back in our history, back to the very earliest days of our Republic. Our sister Republic of France was fighting for her life across the seas. French diplomats

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tried in vain to gain the support of the government of George Washington. Many Americans favored aid to France, but the government stood by its policy of isolation. Finally, Citizen Genêt, French envoy to the United States, appealed to the people of the United States over the head of their government. The result? "Keep your nose out of our affairs!" Genêt is today one of the villains of school book American history. His only offense: intervention.

Such historical lessons should teach us well the political dangers involved in an attempt to interfere in a government not our own. With a little more political judgment, Wilson, Roosevelt and Genêt would have been better off.

We should also have learned our lesson about a different kind of interference—officially backing un-democratic forces in a nation where democracy is fighting for its life. We saw the results of such a policy in the Germany of the twenties, and we are seeing it elsewhere now. We cannot abandon those forces of democracy within a country which have fought for their ideals, perhaps lost everything, but which have maintained their faith in democracy and (at times) in the United States. To abandon them is cruel and thoughtless. To back a government opposed to democracy is ultimately to destroy the form of government we believe in.

The answer of how to think about the problems of Argentine politics is not a simple one. First, we must understand the peculiar aspects of Argentina's problems. We must not label her as Nazi or Fascist. We must not assume the "holier than thou" attitude that she is morally wrong in her isolation and we are morally right. We must understand the psychology of the nation by comparing it with our own past psychology. We must understand the politics of the nation by tracing its roots and distinguishing it from the forms that we are acquainted with in Europe and North America. Second, we must never abandon the forces that have kept faith with us and with their ideals and back the side that opposes democracy. Third, we must not attempt to interfere in the affairs of Argentina, for such interference only militates against whatever purpose we might have in mind.

It is no secret what we would like to see in Argentina in the future. Our values of justice, individual freedom and government by law have been broadcast to the entire world. Those of us who know Argentina have great faith in her future. She is faced with problems that the United States was not faced with in the nineteenth century. She is a country with a future; she knows it; she will make that future herself. But let us never make the mistake of reasoning that since interference on the side of the forces of government by law was wrong, interference on the side of government by personality is right.

• **Encouragement is oxygen to the soul.**

—George Matthew Adams

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We need low-cost legal aid

The Legal Dilemma

By Norman M. Lobsenz

Author and Journalist

AT the time of the last census, there were 177,643 lawyers in the United States, or approximately one for every 200 families. Yet millions of the families which comprise a large part of the population — the lower middle class — have never in their lives consulted an attorney.

There is today, however, a growing awareness that law and lawyers are not the exclusive concern of businesses or wealthy individuals; that every man and woman is in some way and at some time party to a legal proceeding. In fact, the legal dealings of the so-called "common man" bulk larger, in the aggregate, than those of large corporations.

The combination of these two facts adds up to a single, overpowering truth. There is a real need for a plan whereby persons of moderate income could get competent, sympathetic legal counsel for standard minimum fees.

As matters stand today, the middle income person—the teacher, skilled workingman, civil service employee, small business or professional man—is in a legal no man's land.

On one side of him stand the charity organizations whose work is hedged with financial and moral restrictions. On the other is the independent attorney whose fee is usually beyond reach. And from all sides he is bombarded by problems and situations which, though he may not realize it, are legal in nature: wills, installment purchases, leases, sales contracts, small loans, tax returns, workmen's compensation, domestic difficulties.

More than 80 per cent of America's middle income group have never consulted a lawyer. A survey showed that in certain areas, embracing both rural and urban districts, more than three-quarters of the legal matters were handled without legal advice. Why?

The X quantity—"how much will it cost me?"—is one of the greatest deterrents. The average person hesitates to seek counsel even when he knows it is necessary because it is like buying a pig in a poke. He has no idea what he's going to get, or how much he will have to pay for it.

Since the legal profession has by and large extended this illogical principle to its logical end, a lawyer's fees are seldom standard or consistent. Often they are calculated on the basis of what the traffic will bear.

Rooted in the average man's mind along with this concept of the lawyer as an expensive proposition, a

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uxury for the rich or the corporate, s an unreasoning fear of lawyers.

This is the reaction which pro- luces such stereotypes as the "con- niving" lawyer who "gets you into rouble," "puts something over on 'ou," or "drags you into court." According to this attitude, lawyers re "sharp," "shrewd," and "money- grabbing"; they talk a "mumbo- umbo" of technical phraseology; it s "shameful" to go to a lawyer be- ause you need one only if you've ommitted murder or larceny.

Such an attitude is far from new. hree early American rebellions— Bacon's, Shay's and the Whiskey Rebellion—were all directed against wyers and legalism. Some colonies ctually prohibited the practice of w for money.

REVENTIVE LAW

Basically most significant, how- ver, is the average person's lack of nowledge of the fact that the bulk f legal work is consultative rather an litigious, and his ignorance of e value of preventive law.

He does not realize that in law, in other things, a stitch in time n save nine; that legal counsel tained in advance of a transaction n save him from making mistakes hich may lead at best to worrisome nfusion, at worst to expensive law- its. He has not yet been made to e that a wider use of preventive w could save him trouble and oney. He has not yet learned at it is cheaper to keep out of ouble than to get out of trouble.

This reaction, incidentally, is not tirely unilateral. Some attorneys emselves look upon organized low- st preventive law with a wary eye as a device to cut down their busi- ness and their fees. Actually, it would increase both.

John Doe will, in general, visit his dentist twice a year, get a phys- ical checkup at regular intervals, buy vitamins to keep up his resist- ance, and insure himself and his property against potential damage.

But he does not think of checking with a lawyer before signing a lease or a sales contract. Although the attorney may find a hidden clause and thereby protect John Doe's in- terest, John cannot conceive of the fee as a sort of legal insurance pre- mium.

With such a formidable wall standing between the moderate in- come groups and the independent attorney, it is natural that when in legal difficulty they should seek help from the various types of organiza- tions offering legal aid. Best known among these are the Legal Aid So- cieties, located in virtually every major city and coordinated by the National Association of Legal Aid Organizations.

The first Legal Aid Society in the United States was formed in New York City in 1876 as an adjunct of the German Society, formed to help German immigrants. Fourteen years later it was expanded to serve all needy persons. It has since grown to be the largest single organization of its kind. In 1945, its 22 staff attorneys handled 29,815 cases, ex- clusive of criminal cases, and col- lected for their clients $35,969. It is competent, sympathetic, honest and performs a vital function.

Nevertheless, the Legal Aid So- ciety is almost completely useless to

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the middle income group because of its requirement that clients be near paupers, certified as such by a welfare agency.

The maximum amount one can earn and still be considered in that category is not explicitly stated by the Legal Aid Society in New York. According to the organization's officials, the figure varies with the applicant's circumstances, such as his age, number of dependents, health of his family. However, it has been estimated that a man who earns more than $30 a week, on the average, is ineligible for assistance.

Other yardsticks include the New York Civil Practice Act, which denies the legal rights of a pauper to a man who owns more than $300; and a suggested "poor litigants' statute" drafted by the American Bar Association which defines a poor person as one earning $25 a week and owning a maximum of $500.

In addition to setting financial limitations, Legal Aid Societies pass moral judgment on the cases presented to them. For instance, the New York Society will not accept a case "unless it appears to be meritorious." It will reject an applicant's problem "where it would be futile as a practical matter to pursue a legal remedy," or "where the applicant proves to be unworthy."

Divorces, annulments and separations will not be handled unless "justified by sound social policy," where "social reasons appear to make such an action both necessary and desirable."

This leaves out in the cold anyone who wants a lawyer who will neither dictate his morals nor prejudge the merits of his case.

There are also several technical reasons why Legal Aid Societies are not always useful. Among the types of cases they will not ordinarily handle are those in high courts; those involving amounts exceeding $300; those dealing with libel, slander, patents, copyrights, equity actions, naturalization, personal injury or property damage (where there is a fee contingent on the court's award), and, in general, "any case involving extensive investigation or a long period of preparation."

Though there are several other types of legal aid, none is adequate for the problems of the middle income group.

Many bar associations have their own "legal aid committees," but these are almost solely for the poverty-stricken, who are referred to it by welfare agencies. Often these committees work with Legal Aid Societies.

In some cities there are government-operated legal aid bureaus, but these are frequently subject to the natural ills of civil service: apathy, routine, red tape, appointment on the basis of seniority or preference rather than ability, and a large turnover of personnel which might result in trundling one man's case through the hands of several different lawyers.

Law schools at universities such as Duke, Harvard and Southern California have from time to time set up legal aid clinics conducted by the students (in some cases without

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faculty supervision) in order to provide practical experience. This makes for excellent training for the students, but hardly assures the client that his problem will be treated with any degree of expertness.

Finally, many large and important law firms devote a small part of their time to what may be termed charity work. But they can help only an infinitesimal number of those seeking assistance.

Those, then, are the alternatives of private and public legal aid, none of which is of practical use to the person of moderate income.

It is no wonder that into this vacuum have stepped insurance and real estate agents, financial counsellors, certified public accountants, notaries public, all of whom improperly give legal advice.

It is no longer considered at all extraordinary that "Income Tax Returns Made Out" signs blossom on newsstands, in candy stores, restaurants and barber shops.

Lawyers are shocked at this. But they offer no alternative. As one New York State Bar Association committee report said:

"How can lawyers object to a man's going to his news dealer or real estate agent to help him with an income tax return for $2 if the Bar is unwilling to undertake such a service at a comparable price; and if it takes no steps to point out the risk run in preparing, without legal help, documents which may later involve a man in lawsuits?

"If the assertion 'You don't need a lawyer' is not only to be met successfully, but countered with the conception of the need for a 'family lawyer,' the Bar must enlighten its own members as well as the public."

A plan of nationwide application is needed, a plan which will make available competent, all-around legal help at prices low enough for the middle income group to afford, yet high enough to allow a living wage for the lawyers taking part.

THE PLAN

Such a plan should combine four major features. Its lawyer-members must be "available" in every sense of the word. Their offices should be located physically near residential areas. Office hours should take into consideration the fact that the average workingman is unable to take time off during the day to attend to his personal affairs. And fees should be within reach of the lower middle class pocketbook.

Secondly, those fees should not be kept a deep, dark secret, nor should they vary with the client. A standard schedule of minimum fees, scientifically prepared, with definite prices for definite jobs, where possible, should be placed in full view. It is interesting to note that in 1945 committees were named by 22 New York State bar associations to study, adopt or revise such schedules. It was pointed out that they operate to the lawyer's advantage as well as the client's by keeping a young, inexperienced lawyer from undercharging, and by doing away with "bargaining" over the fee.

Thirdly, lawyers taking part in this plan should have large quantities of sympathy, patience and tact. They should not be motivated by any false sense of *noblesse oblige*.

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Rather, they should view their job as a practical commercial venture which at the same time is socially valuable. That it can be commercially practicable is evidenced by an American Bar Association statement which said of low-cost legal service: "The aggregate of business thus uncovered will, we feel, be so largely from new sources that lawyers, in general, would gain rather than lose."

However, while a legal service plan should be partially designed to enable young lawyers to secure an economic foothold in a virtually untapped field, precautions should be taken to prevent unethical competition with established private attorneys.

For instance, cases involving potentially large contingent fees, or wills which set up trusts, or similar legal matters, involving large amounts of money, should not morally be acceptable. Conversely, no free advice should be given. Those who cannot pay even the low standard fees should be referred to the Legal Aid Society or a similar organization.

Finally, the plan should underwrite an educational campaign on preventive law and the value of legal advice, to be conducted by the Bar as a whole. A profession-wide public relations program would not violate the Bar's canons prohibiting advertising which restrict the individual practitioner.

At present two devices for organized low-cost legal service are in operation, but neither is established on a broad enough scale to meet the public's need. One is the Legal Reference Bureau plan, sponsored by various bar associations; the other is the Neighborhood Law Office plan, sponsored by the National Lawyers Guild. Both are now in the process of expanding into New York City.

LEGAL REFERENCE BUREAU

Legal Reference Bureaus operate on a panel basis. The plan which has just gone into effect in New York City offers a centralized service supervised by a joint committee of the metropolitan area's bar groups. The referral service is conducted by a full-time, paid attorney who acts as a go-between for prospective clients and a panel of about 800 lawyers.

After a preliminary consultation, the client is referred to an attorney registered with the bureau. He charges a standard consultation fee of $5. Any further legal action the client and lawyer may take is paid for at mutually agreed-upon "moderate" rates. All lawyer-members of the plan keep up their own private practice, and handle the "low-cost" cases on a part-time basis.

The Neighborhood Law Office plan is physically more decentralized and involves less red tape for the client. Experimentally instituted in Philadelphia in 1939, it has been highly successful there. It is just getting under way in New York City, with only one office functioning.

It unites two or three approved attorneys (it is planned to use only war veterans in New York City) as partners in an inexpensive office accessible to large groups of middle

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income families. This is usually located in a local shopping area. Each office is a unit in itself and operated, except for the use of standard fee schedules, as if it were a private law office of the usual type. Profits or losses accrue to the partners involved.

Sample fees might be: $1 for a half-hour consultation; $2 for a simple will, or $5 for a complex one; $1.50 for a tax return; and where a contingent fee is involved, a maximum fee—usually less than that allowed by law—is set by the supervisory committee. Care is taken to avoid cases which might result in very large fees, or which might unethically infringe on the rights of attorneys outside the Neighborhood Law Office plan.

The average man needs and will use such services as these two. This has been amply demonstrated.

In Chicago, a legal reference bureau has been operating successfully for years, and the Los Angeles organization was swamped with more business than it could handle after it received newspaper publicity.

Nor has any Neighborhood Law Office ever lost its original financial stake. Many have made substantial profits. In several instances, the offices have become the center of community civic activity.

Law itself is ideally fair. The Fourteenth amendment to the Constitution forbids denying anyone its equal protection. The American Bar Association's admission oath requires an attorney to swear never to reject "the cause of the defenseless or oppressed . . . for lucre or malice." And the courts are legally available to rich and poor alike.

Justice, however, is not so easily come by. It costs money to seek it. For those who cannot afford a lawyer's services, justice often goes by the board.

Most attorneys agree that there is a tremendous need for low-cost legal service. They agreed this in ancient Rome, where the state appointed *defensoria pauporum,* lawyers for the poor; in the Dark Ages, when St. Yves, lawyers' patron saint, stressed the obligation to give legal aid to the indigent; in early England, where the church named lawyers for widows and orphans. Today the American Bar Association says that if people know they can get advice about their problems for a modest fee, "the resulting good-will towards the bar will be almost inestimable."

Yet not only is little done to realize this objective; obstacles are thrown into the path of progress. Bar groups have called the Neighborhood Law Office plan everything from "impractical" and "communistic" to a "conspiracy against the dignity of the profession." And in New York, where Legal Reference Bureau plans lay fallow for more than six years, the new referral service is not yet sufficiently direct or inexpensive enough to solve the legal dilemma of the great majority of the people who are ill-advised, or un-advised.

A well-organized, thoroughgoing, nationwide low-cost legal service would provide true and equal access to real justice for all.

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Will atomic energy oust coal and oil?

The Second Industrial Revolution

By Morley G. Dilke

WHEN the U.S.A.A.F. dropped atomic bombs first on Nagasaki and then on Hiroshima, the attention of the world was forcibly turned to the control of the use of atomic fission in warfare. It has been freely predicted that, in view of the development of the atom bomb, the world must learn how to maintain peace or face destruction.

Great as the importance of the bomb may be in warfare, the effect of the development of atomic fission on our daily living may be even more startling. The Senate of the United States has recently been concerned with efforts to amend the bill for the development and control of atomic energy. (The Atomic Energy Act of 1946, Senate Bill 1717). In a single day, the bill was under fire by men concerned with the effects of the development of atomic energy on many economic and social aspects of our lives.

> The United Nations may learn how to control the use of atomic energy in war. We must also learn what its peacetime effects may be.
>
> Its use may overturn the economic patterns of peace as completely as the atom bomb has overthrown the old concepts of war. This possibility and our present efforts to keep atomic energy from disrupting industry are shown in the Senate debate on "The Atomic Energy Act of 1946."

Mr. Tunnell, Democratic Senator from Delaware, feared that government licensing of the use of atomic energy might result in restrictions on its development and use. Brien McMahon, Democratic Senator from Connecticut, Chairman of the Special Committee on Atomic Energy, conceded that it would do so but held that this was unavoidable. Senator McMahon was, in 1938, the Assistant Attorney General in Charge of the Criminal Division of the Department of Justice. He prosecuted the Harlan County Kentucky Coal Operators Association — the first case under the Wagner Labor Relations Act. Then, as now, he was on the side of the growth of power of the government, hoping to use government power to attain socially desirable ends.

He was elected to the Senate in 1944—defeating Senator Danaher in a close election. At that time, he returned a $750 check contributed to his campaign fund by the National Citizens P.A.C. and accepted a $1500 check from the $1000 Club.

Senator Thomas of Utah (Democrat) feared that the grant of such power to the government might result in deliberate slowing up of in-

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vention on the well-known theory that new sources of power put men out of work. Again Senator McMahon acknowledged the possibility and defended it on the ground that the use of atomic energy for power might revolutionize the railroad industry of the country.

Partly as an aside—the use of atomic power in place of coal might well end all the problems which the coal industry has presented in differing degrees in all countries in the past 60 years. Certainly the possibility of the use of atomic power to replace coal and so cut railroad revenue, calls for a serious rethinking of all our doctrines of made work. Coal mining is, as John L. Lewis has maintained, one of the least desirable of occupations—but it is also the principal means of livelihood of 400,000 men. And, as Senator McMahon pointed out, atomic energy developments might affect not only hundreds of thousands of miners and railroad revenue, but might reduce the value of the stocks and securities held by insurance companies by 80 per cent.

Senator Hatch (Democrat), of Oklahoma, introduces another aspect of the development of atomic energy by pointing out the effects of the bill on current ideas of private property, through the effort to make the United States government the sole market for the source material used in producing atomic energy. Senator Hatch is best known for his long fight to clean up politics. In 1939 and in 1940, he was instrumental in passing the Hatch Acts which forbid federal employees to use their positions to influence political conduct and prohibit the solicitation of funds from employees on public relief projects. These acts also forbid attempts to retain political support by the promise or denial of employment in any project made possible by national appropriations. They cover state employees paid in part by federal funds. They attempt to limit campaign funds and the sizes of campaign contributions.

The acts have been widely evaded, and Senator Hatch has from time to time attempted to strengthen them. With Senators Ball, Burton and Hill, he was a sponsor for the B_2H_2 Bill, a bill to commit the Senate to the support of internationalism.

Senator McMahon, in defending the atomic energy bill, stated: "I say to the Senator that included in this bill are some things which the committee accepted only reluctantly, because I would be less than frank with the Senate, if I did not emphasize that in some respects we have departed from our former methods of handling public questions."

This statement touches as fundamentally important a point of difference in ethics (does the end justify the means?) as the Senator's defense of licensing touched on in economics: the monopolistic and anti-monopolistic controversy revolving around the limitation of production to protect vested interests.

And that controversy was pointed up more sharply, though in a restricted field, by Senator O'Mahoney (Democrat), of Wyoming, in his attempt to force an amendment to prevent anyone connected with the Manhattan Project from taking up lands which contained uranium deposits.

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This attitude is completely understandable since he was the Chairman of the Temporary National Economic Committee. This committee had for counsel Leon Henderson, Thurman Arnold and Robert H. Jackson, and made a report which now is as honored in the breach as are the Hatch Acts. However, the hearings left a very clear picture of monopoly practices in Senator O'Mahoney's mind. He has long been an advocate of the "service state." He was one of the sponsors of the Wagner, Thomas, Murray, O'Mahoney full-employment bill. But he is also aware of the phrase in Wyoming's constitution which states: "arbitrary power exists nowhere in a Republic, not even in the largest majority."

He has objected to the use of executive authority, once writing: "policies are no longer being determined by the people or their representatives but through Executive order by employees of the government." And he voted against increasing the Supreme Court (the so-called Supreme Court packing bill). He has advocated the limitation of the power of corporations, as well as the limitation of government by executive decree. He favors federal licensing of corporations in interstate commerce and would use the licensing power to restrict their operations.

He has even advocated the abolition of the two-thirds Senate vote necessary to ratify treaties, favoring instead a majority vote "which would more nearly approximate the will of the Nation."

On the other hand, Senator Vandenburg (Republican), of Michigan, is completely aware of the fact that the Senate is the final word in treaties, whether or not they concern the use of atomic energy. Speaking as a Senator, to Senators jealous of their prerogatives, he makes this crystal clear.

The following excerpts from the *Congressional Record* report of the debate on Senate Bill 1717[1] reveal some of the problems we face in controlling atomic energy domestically and the possible effects of atomic fission on the economic and social life of the people of the country:

Mr. McMahon. Mr. President, I rise to propose to the Senate that it adopt Senate bill 1717, as amended and reported by the Special Committee on Atomic Energy. The bill provides for the development and control of atomic energy. Your committee, constituted at the end of last October, has engaged in more than five months of continuous study of a problem which challenged the complete attention, the intelligence, and the complete earnestness of the committee members. I wish to pay tribute to the members of the committee who worked morning and afternoon on this subject, which was entirely new to them when they commenced, as it was to me, and who pored over every detail of the bill. I am happy to tell the Senate that after this five months of work, in which there was not even for one moment a scintilla of partisanship, the committee has agreed on every word, and every line, and every clause of the bill.

I have said, Mr. President, that it is a challenging subject. It is complicated. Atomic energy can make

1 *The Congressional Record, Senate,* Vol. 92, No. 104, pp. 6196-6208.

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or destroy America. So, I should like to speak for a few moments about the result of the committee's endeavors and about the bill as it finally shapes up before us.

It was soon concluded that there could be no private production of fissionable material within the boundaries of the United States. It was concluded that national safety and national welfare demanded that all facilities producing fissionable material, of which atomic bombs are composed, should be under the sole management and control of the government. We also concluded that it was necessary at this time to impose certain security restraints in regard to this subject.

Those security restraints will be found written into the bill. This was one of the most difficult subjects with which to deal, because we realized that if we were to progress, as we must progress in this science, the maximum amount of freedom had to be allowed to scientists.

I should like to take a few moments to refer to the patent features of the bill. Obviously if all production of fissionable material is to be under government control and management there is no field for private patents on the production of such material. However, the bill provides that any one who makes such an invention shall be properly compensated. It is provided that there shall be no patents on the invention of atomic weapons. Obviously, this is a wise provision of the bill; but compensation is provided for the discovery.

The bill further provides for a technical advisory committee, to be appointed by the President, which shall meet four times a year, and which shall be on a part-time basis, to advise and consult with the Commission on scientific and technical matters relating to materials, production, research, and development.

Finally, the bill provides for the establishment of a new standing committee——

Mr. Downey. Mr. President, will the Senator yield?

Mr. McMahon. I yield.

Mr. Downey. Is the technical advisory committee which the Senator has mentioned to be composed of scientists and technicians?

Mr. McMahon. The Senator is correct. The bill also provides for a new standing committee, to be composed of nine Members of the Senate and nine Members of the House of Representatives, who will act in all respects as the agent of the Congress for the purpose of keeping in congressional touch with the developments of atomic energy and the actions of the Commission.

The bill makes provision for free mining. We have not attempted to take over all the uranium in the United States. We have provided the Commission with the power to condemn and pay just compensation for any uranium supplies which it is unable to buy in the open market. We believed that it was important and necessary to see to it that the independent mining system which now exists in the United States should not be disturbed any more than was absolutely imperative for the security of our country. We have tried to provide for free science and free research, because we realized that unless we left men's minds free to research, invent, and discover in this field we would be doing a disservice not only to nuclear physics, but to science as a whole.

Security by achievement cannot be realized if we try to encompass by stringent security rules the minds and intellects of our scientists. So we have left our scientists free to think and free to produce. We have had

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to impose some restrictions, which perhaps we might wish we did not have to impose.

Mr. Tunnell. Mr. President, will the Senator yield?

Mr. McMahon. I yield.

Mr. Tunnell. I should like to ask the Senator what the license which the Commission grants authorizes to be done?

Mr. McMahon. I assume that the Senator is asking me about the license in connection with an atomic-energy device.

Mr. Tunnell. That is correct.

Mr. McMahon. Under such a license the owner of the invention may proceed to manufacture, further develop, and use the device.

For instance, let us assume that there was an atomic-energy device which was capable of being placed in a locomotive and hauling a train from Washington to New York. Let us assume that the Pennsylvania Railroad was the licensee. The Senator will appreciate, as was so said by the Senator from Michigan during our deliberations, that if we were to wake up some morning and were to read in the Washington newspapers a story that development had come about overnight, without the proper amount of planning and forethought it might precipitate the economy of the country into chaos.

Mr. Tunnell. Then, as I understand the Senator, in order to manufacture devices for the use of atomic energy, it will be necessary, will it not, to have a license from the Commission?

Mr. McMahon The Senator is exactly correct.

Mr. Tunnell. Very well.

Mr. McMahon. I reiterate that the Commission cannot grant a license until it reports to the Congress on the basis of a thorough and complete study of what the Commission believes will be the economic, social, political and international consequences of the use of the device.

Mr. Tunnell. The Commission, then, will report to Congress in the case of each device?

Mr. McMahon. Exactly so.

Mr. Tunnell. I thank the Senator.

Mr. Thomas of Utah. Mr. President, will the Senator yield to me, to permit me to ask a question at this point?

The Presiding Officer (Mr. Johnston of South Carolina in the chair). Does the Senator from Connecticut yield to the Senator from Utah?

Mr. McMahon. I yield.

Mr. Thomas of Utah. That does not mean, does it, that Congress would put a lid upon progress or upon improvement? No provision is made or method prescribed which would require the showing of economic necessity for the use of a lighter metal than steel, for instance, or something of that sort which might affect the steel industry, just as the use of stronger energy might affect industries which are now using energy of another kind? It does not mean that Congress would be the judge and would weigh the problem of a proposed change, and would, therefore, be found in a position to renounce progress or to keep it static? It merely means that all the people will know what is happening. Is not that the idea?

Mr. McMahon. There will be no disposition, I am sure, to restrict the use of atomic energy in our industrial life. We have tried to write the bill with the idea in mind of promoting the further invention, the further discovery, and the further use of atomic energy. All we have tried to do is to set up certain safeguards against throwing atomic energy into our economy in such a haphazard way or such an overnight way as to

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cause consternation, chaos, and even, perhaps, the destruction of our economy.

Let me say to the Senator from Utah, suppose there was no such provision as the one contained in the bill; suppose a license were to be granted, upon application, to the Pennsylvania Railroad, and suppose that railroad proceeded to use it. What would happen? Certainly the coal mines would immediately decrease their production. Perhaps hundreds of thousands of miners would be thrown out of work. The railroad itself, inasmuch as it secures a large income from the transportation of coal, might be seriously affected. As the Senator knows, the securities of the railroad companies are owned in large part by the insurance companies of the United States. Such a change might undermine the values of all such stocks and securities held by the insurance companies; their present values might be reduced 80 per cent, so that overnight we would have economic chaos.

I wish to emphasize to the Senate that the committee wrestled long and seriously with this problem just as it did with every other problem involved. Every facet was examined. Every argument was met. So, the bill as reported by the committee is the unified conclusion of the 11 Senators who spent five months on this bill

Mr. Huffman. Mr. President, will the Senator yield?

Mr. McMahon. I yield.

Mr. Huffman. Then the purpose, as the committee conceives it, is to bring about evolution in the use of atomic energy in our industrial life, rather than to bring about revolution by a sudden substitution of atomic energy for our existing forms of energy. Is that correct?

Mr. McMahon. We went to school, to the scientists, as I am sure Senators will realize, and we talked with just about everyone whom we thought could help us with this problem. I say to the Senator that I have great faith in the future of atomic energy, industrially as well as medicinally, indeed in those respects it is here today. Let us consider an example of perhaps lesser importance: As an aid, for instance, in the discovery of new oil wells, it has been used recently. However, after all, we now have an economy which is built upon water power and upon coal and upon an integration of our natural resources as they are today. If overnight a cessation of one of those great industries were to occur, we might lose the benefits of atomic energy because of the very destruction of the base of our government, which is economic stability.

Mr. Huffman. Yes. And if we were to be plunged into the use of atomic energy overnight, it would, in the Senator's opinion, would it not, completely wreck our present economic system?

Mr. McMahon. I can say to the Senator that it is my conviction that if what I cited in the example to the Senator from Delaware were to occur, without any previous planning with respect to how to provide for the employment of the men who would be thrown out of work by even the one use which I then suggested we would be playing with fire.

Mr. Huffman. I thank the Senator.

Mr. Hatch. Mr. President, will the Senator yield?

Mr. McMahon. I yield.

Mr. Hatch. I have been reading the provisions relating to public lands, as found on page 43 of the bill. I should like to have a little information about the provisions, if the Senator is able to give it to me.

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I observe in subsection (7), on page 43, a provision that all fissionable materials in the public lands "are hereby reserved for the use of the United States."

First, I observe that there is a provision that all fissionable material is reserved to the United States—that is to say, such material which is in the public lands of the United States. Then there follows an exception.

Mr. McMahon. Yes.

Mr. Hatch. That exception is in the language—

> Except that with respect to any location, entry, or settlement made prior to the date of enactment of this act no reservation shall be deemed to have been made, if such reservation would deprive any person of any existing or inchoate rights or privileges to which he would otherwise be entitled or would otherwise enjoy.

Mr. McMahon. If a man takes out a patent on a piece of public land and spends the necessary $100 a year in order to perfect his right, he has title to the uranium which may be mined until he separates it from its place in Nature. When he separates it from its place in Nature he must receive a license from the Commission before he may dispose of or remove the material.

Frankly, there is only this difference between the Senator from New Mexico, who after the passage of the bill takes a patent on a piece of land, and myself, if I have heretofore obtained in the State of Colorado, let us say, a patent on a piece of land containing this material: In the Senator's case, when he goes to the Secretary of the Interior he will have placed in his patent a reservation to the title of all the uranium, thorium, and all the materials which are later determined by the Commission to be capable of producing atomic energy, whereas the Senator from Connecticut, who had previously acquired his patent, will have the title, but will be unable to sell any of the source materials to anybody except the Commission when he takes them from their place in Nature.

Mr. Hatch. Suppose that subsequent to the general release to the public of the discovery and uses of atomic energy, numbers of persons have gone into the Western States and have merely filed mining claims on lands which proved later to be capable of producing sufficient material of the kind to which the Senator has referred. They have no patent now, but they do have the right which was acquired by the filing of the claim in the first instance. They have done nothing from that time to the present date, but all the fissionable material in all those lands

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Mr. McMahon. The source material.

Mr. Hatch. The source material belongs, under this bill, to those individuals.

Mr. McMahon. It may seem that the right is worth money, but allow me to point out that the minute the individual digs the source material from the ground and separates it from its place in nature, he has only one customer, namely, the Commission which is created under this bill. He must receive a license before he may move that source material from above the ground, where he has separated it from its place in nature, to the smelting mill.

Mr. Hatch. I am sure that a license would not be denied arbitrarily. He would receive the license and he would sell to the Commission.

Mr. McMahon. He would receive just compensation as provided under the bill.

Mr. Hatch. There is another clause

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in the same section which causes me to question the meaning of it. Suppose the Commission did not wish to buy material.

Mr. McMahon. That situation is provided for in the last sentence of the paragraph. The language there is:

> If the Commission does not require delivery of such material to it, the reservation made pursuant to this paragraph shall be of no further force or effect.

Mr. Hatch. Under those circumstances, the individual would have a complete right to sell or otherwise dispose of his material?

Mr. Hatch. Is that what the committee wants to accomplish?

Mr. McMahon. Yes; because if the Commission should ever take the position that it did not want any specific amount of thorium or uranium, the Senator may be assured that it would be of such concentration that is would not be feasible to use it for the production of fissionable material.

Mr. Hatch. Then, there is no absolute reservation to the United States. It is subject to the will of the Commission

Mr. McMahon. The reservation which is made by the Secretary of the Interior is in favor of the Government—in this case, the Commission. The Commission has the right to purchase every single ounce of the material at a fair and just price. If the Commission should decide that it did not want to buy the material, theoretically the miner would have the right to sell it to some one else. Such right, I believe the Senator from New Mexico will agree with me, is illusory and is worth nothing. If the Commission does not buy the source material, the man who separates it from the ground does not, under the terms of the bill, have any right to export it.

Mr. Hatch. I am already convinced that there is not a complete reservation of title to the United States Government in the Government-owned lands. A reservation has been made which may or may not be effective on the commission. That may be a wise course to follow, but that is the effect of the language, as I read it.

Mr. Hickenlooper. Mr. President, will the Senator yield to me?

Mr. McMahon. I yield to the Senator from Iowa.

Mr. Hickenlooper. I may suggest to the Senator from New Mexico that this matter was very thoroughly studied by the members of the committee from the Western States.

It was an attempt, first, as I understand—and I wish to be corrected by the chairman of the committee if my statement is not correct—to reserve uranium in any public lands for the undisputed use, control, and acquisition by the Government, and the right of the Government to fix just compensation for its separation from other ores, so that it would not necessarily disturb the discovery and production of other metals. Consequently—and this is, perhaps rather important—it allows the Government at some time in the future to divest itself and to get out from under the responsibility of buying, if, as, and when, it may not be desirable on the part of the Government to do so.

Mr. Hatch. The Senator is aware, is he not, that under Executive order all these lands are withdrawn from any development or exploration?

Mr. McMahon. That is true.

Mr. Hatch. There are involved monopoly practices, and the absolute control of western lands, as against those who have gone out and se-

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cured prior rights. I did not want to raise any question about it, but I did want to point out what I think may happen under the bill. The Senator and his committee have probably given consideration to the matter, but there still is perhaps a private monopoly created by the bill.

Mr. McMahon. Let me give the Senator the other side of the picture. Upon the sources of these materials may well rest the very security of this Nation. We must, as the committee sees it, make any effort to encourage the independent prospector to go out and develop. That is the basis of the committee's action.

Mr. Hart. Mr. President, I think it should be said that it is not so simple as to be merely a question of ore that contains only uranium. Uranium ores are always complex. Vanadium is almost always found in the same ore, and up to the time when we began to use uranium, the ore was picked over for the extraction of vanadium and uranium went out on the dump. Mining development should and will go on even if the uranium is not used.

Mr. Johnson of Colorado. The uranium deposits in the United States are very limited. As a matter of fact, the only uranium ores we have discovered so far are very low grade, with only a trace of uranium. We wanted to be certain, in writing this section on public lands, that under the theory that there might be uranium in complex ores, the Government might restrict all ores in the United States, simply under the theory that there was a trace of uranium. So we had to protect the mining laws, as well as protect the Government in the acquisition of uranium ores. It is not so simple a problem as one might think. If we put in our law an absolute prohibition with respect to the mining of uranium ores, we are going to stop the mining of all ores, and, of course, that would be a very great disadvantage to the country, and to the West particularly.

Mr. Hatch. . . . to some extent that did happen when the withdrawal order of the President was issued. We stopped much prospecting in the Western States. My point was simply to see, if possible, if the Government was protected. I am wondering whether it has not been proposed by an international authority that all ores should be somewhat controlled by that authority.

Mr. McMahon. I might say to the Senator that there is a provision in the bill that any arrangement made internationally on this subject shall take precedence over any provision in the bill.

Mr. Johnson. ... once this source material is removed from its natural place in the earth the bill provides for an absolute confiscation of it. But the thing we wanted to be careful about was placing a prohibition against its development while it was in place, for fear of doing violence to other metals and other resources, and to the development of our whole mining area. But the committee did not hesitate, and this bill provides that when the source material has been removed from its natural place in the earth it shall go to the United States Government.

Mr. Hatch. I would not quite agree with that statement if it were not for the last sentence that was used, that if the Commission does not desire the material, then the reservation is no longer effective. That would leave it wide open to sale, export, or anything else, if it were not for the other provisions of the bill, which I assume, from what the Senator from Connecticut said, do prohibit sales and export.

Mr. McMahon. That is true. Not

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only is the export of source material prohibited, but the export of fissionable material is also prohibited. We also in the amendment prohibit the export of any important component part of any device to produce fissionable material.

I may say, Mr. President, that there are one or two industries in the United States which use thorium today, though not in very great quantities.

Mr. Cordon. I note on page 58 of the bill this provision:

> It shall be the duty of the Commission to declare any patent to be affected with the public interest if—

Then certain conditions are set out. Does the Senator take the view that it is within the power of the legislative body of the United States by statute to determine what is or is not affected with public interest? Is not that purely and solely within the province of the courts?

Mr. McMahon. No; I think not.

Mr. Cordon. The point I make is that in the last analysis, if it comes down to a purely legal question of the power of the Government to control these patents by license or otherwise, the decision as to whether this activity, or the rights under the patents, as the case may be, are affected with public interest, would rest in the court, and the court would not be bound by any legislative declaration.

Mr. McMahon. I think not. I do not agree with the Senator. I think when the Commission is authorized to declare a patent affected with the public interest, it would of course only do so provided it used fissionable material, and before it granted a license to use the invention it would first have to come to the Congress with a thorough-going report on the whole subject.

Mr. Cordon. The question is going to arise, I think, sooner or later, and I want to call attention to the decision of the Supreme Court, I believe, in the AAA case, in which Congress attempted to regulate agriculture, and the Supreme Court found that the act was unconstitutional because agriculture was not affected with public interest, even though the Legislature had attempted to say that it was.

Mr. McMahon. I will say to my good friend from Oregon that, with all due deference to him, I would attempt to draw from the Butler case, frequently referred to as the AAA case, no analogies which would govern the interpretation of this subject which has within its being the power to destroy us or make for a better world in the future.

Mr. Cordon. I have no doubt that that determination will be made by the Court, but the point is that I think it is up to the Court to make it.

Mr. McMahon. I tried to emphasize to the Senate when I started that the committee became convinced that this subject wrote its own rules. I say to the Senator that included in this bill are some things which the committee accepted only reluctantly, because I would be less frank with the Senate if I did not emphasize that in some respects we have departed from our former methods of handling public questions.

Mr. Murdock. Realizing that the distinguished Senators from Colorado, as I understand, have both participated in the consideration and framing of the bill in committee, and due to the fact that I have not had time to give it extensive study, I ask, What is the effect of the bill on the status of a prospector who goes out and locates a lode claim, or a placer claim for that matter, prior to patent or prior to the issuance of

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a license or permit of any kind by the Department of the Interior? What effect does it have on the status of the ordinary prospector who goes forth looking for ore of any kind?

Mr. Millikin. I think my distinguished colleague, the senior Senator from Colorado, will agree that we were both very meticulous to see that if a man has a valid mining claim, if he has made a valid location, the reservation shall not apply as against him.

Mr. Murdock. As I understand the Senator, if the location of the claim has been perfected before the effective date of this act, then the Senator says any locator in that situation is fully protected by the provisions of the bill. But having in mind the prospector who does not have a perfected location on the effective date of this act, but has one after its enactment, after it becomes effective, what is the effect of the bill on his activities as a prospector and a locator on a valid lode claim or placer claim after the effective date.

Mr. Millikin. I should say that if he does not have those vested and inchoate rights which a locator on the public domain acquires from making a valid location and doing the things subsequently required by law—if he is not in that status, if he has not reached that status, he continues to have his exploratory rights, but if he should find fissionable material, then it would be subject to the reservation which applies to the public domain which has not been validly entered for mining purposes.

Mr. Murdock. If the Senator will indulge me for a further question or two, let us assume, as has been suggested by the distinguished Senator from Connecticut [Mr. Hart], that uranium is found in complex ores. Let us assume that the prospector, after the effective date of this act, discovers a ledge or a lode of lead ore. The large percentage of commercial value is in lead, but his assay shows at least some values in uranium or other fissionable material. What does that mean so far as the locator of the claim is concerned?

Mr. Millikin. Has he made a valid location?

Mr. Murdock. We will assume that after the effective date of the act he makes a valid location, so far as it can be perfected, but it still is a location, and has not proceeded to patent. In the extraction of his ores from the lode, he finds that among other values it has some values in fissionable materials.

Mr. Millikin. Under the case stated, it is my judgment that the uranium part of his ore would belong to the United States Government, but that that would not prevent him from exploring and developing the other ores.

Mr. Murdock. Of course, the mine locator is not in a position to separate the fissionable material from other material. Will he be interfered with at all in his regular processes or procedure of shipping the ore to the smelter and handling it as he handled it prior to the enactment of the law?

Mr. Millikin. In my judgment some regulatory power would have to be exercised to see that such a situation did not arise. The Commission proposed to be established would prescribe certain rules and standards regarding the protection and handling of source materials. It seems to me that the Department of the Interior, on its part, could make rules which would not hinder the prospector, but would allow him to develop those things which were not fissionable; and that between the two

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bodies it would be possible to enable him to mine complex ores, and at the same time not allow fissionable materials to get out of control.

Mr. Murdock. In the opinion of the distinguished Senator from Colorado, is there anything in the proposed legislation which would discourage prospecting for ores on public lands?

Mr. Millikin. I will say to the distinguished Senator that we tried scrupulously to accomplish what we had to accomplish in this bill, and at the same time encourage prospecting, because we all realize that we want to obtain fissionable materials, and that the only way we can get them is to encourage prospecting. We received many suggestions which would have locked up this whole thing in the public domain; wherever there was a suggestion of a fissionable material, it would at once become locked up and taken away, removed from the opportunity of the prospector. But we all decided that since we want fissionable materials we should encourage the production of such materials. That is one of the reasons why we were so careful to exempt the rights of a man who has a valid location. We felt that so far as we could draw an analogy there should be preserved the same kind of freedom in the prospector to find the fissionable ores as we want to preserve in the scientist to develop fissionable ores.

Mr. Murdock. I thank the distinguished Senator for his answer. Coming from him, it is a sufficient assurance to me as to the rights of the prospector. I think I realize as keenly as does anyone else that in the mining, production, and treatment of fissionable materials there is a problem. I heartily approve what the Senator from Connecticut has said, but I thoroughly agree with the Senator from Colorado that we want to encourage the discovery and location of fissionable materials. I believe that we can repose full confidence in the American prospector. He will be just as anxious and just as willing as any other part of our population to cooperate in safeguarding this material.

I thank the Senator.

Mr. Cordon. May I be critical again for a moment?

On page 61, continuing on page 62, are provisions in connection with the power to take patent rights. I find there standards for determining fair compensation. It has always been my understanding of the law that that is solely the judicial province, and that standards may not be established by the legislative body. I should like to have the view of the chairman on that question.

Mr. McMahon. I regret to say that I cannot agree with the Senator's contention that the legislative body has not the right to establish standards for fair compensation. In this bill we have tried to establish fair and just standards in every case in which we provide for the taking of private property, and standards which can be wisely administered.

Mr. Hickenlooper. May I suggest to the Senator from Oregon that on page 62 there is provided an ample judicial review for anyone who is aggrieved by the application of the standard rule by the Commission?

Mr. McMahon. Mr. President, there are only two more matters which I wish to refer to briefly, because time goes apace and, under the agreement, for this all-important matter we have only two hours in which to conclude its consideration.

I wish to refer, first, to the fact that in the bill we have made ample provision for the promotion of research, because, as I have previously

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indicated, we realized that unless we have progress in this field, we shall certainly drop back into a second-place position. So, under section 3 of the bill the Commission is directed to exercise its powers in such manner as to continue the conduct of research and development activities. Under the bill the Commission is empowered to conduct its own research operations. I call attention to the fact that the Commission is also authorized and directed to make arrangements, including contracts, agreements, grants in aid, and loans, for the conduct of research and development activities relating to atomic energy.

I desire to refer briefly to the fact that in section 6 of the bill we have carefully considered the subject of military applications of atomic energy, and under that section we provide for the complete monopoly of production of atomic weapons within the proposed Commission. That does not mean that the Navy and the Army will not have a right to conduct research in the field of atomic energy and atomic weapons. That does not mean that any citizen may not, independently of Government or of grants in aid of the Army or the Navy, proceed to use his inventive genius for the purpose of bringing about an improvement in the science.

Mr. President, I wish further to call attention to the fact that your committee realized that what we were writing was in a new field—a field in which there had been no experience. So we wisely, I think, concluded to write into the bill a recognition of that fact.

Mr. Wherry. Mr. President, I have not been on the floor during all the debate concerning the pending measure . . .

Has there been any statement made with reference to international arrangements?

Mr. McMahon. Yes.

Mr. Wherry. Is there any limitation which is to be placed upon the authority in respect to whatever arrangements may be made by the Commission, and are those arrangements to be referred back to the United States Senate in the form of a treaty to be ratified by the Senate?

Mr. McMahon. Of course, we must appreciate that this bill deals with atomic energy within our own country. As the Senator knows, a very eminent and distinguished American, Mr. Bernard Baruch, was appointed by the President and confirmed by the Senate as our delegate to the United Nations Committee which will try to reach an agreement on this subject. When that agreement is reached—and may God be willing that it shall be reached—it will have to come back to the Senate for ratification.

Mr. Vandenberg. I should like to make one further answer to the Senator from Nebraska. The point which I wish to make is an utterly fundamental one and has been, so far as the Senator from Michigan is concerned, ever since the bomb was dropped upon Hiroshima.

The United Nations Atomic Energy Committee has been set up under the action of the General Assembly of the United Nations. During the course of that action the record was clearly and distinctly made that every nation resolves to itself, by its own constitutonal process, the approval of the ultimate recommendations of the committee.

When Mr. Baruch was appointed as the American member of the United Nations Atomic Energy Committee, and before he was confirmed by the Senate, I sent him a questionnaire in order to be perfectly sure that there could be no doubt with reference to the subject. One of the

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questions was the one which has been asked by the Senator from Nebras. a this afternoon, and Mr. Baruch's categorical reply was that the Senate of the United States must pass upon the ultimate treaty which will contain the ultimate arrangements for the international control of atomic energy and, I hope, for the outlawry of its use for destructive purposes.

Mr. O'Mahoney. Mr. President, I regret very much to rise to ask a question at this moment. Perhaps it has already been covered, but I observe the provision with respect to public lands on page 43. I am wondering whether the committee is of the opinion that the language appearing there is sufficiently broad to prevent any person, corporation, or association which may have had anything to do with the atomic project during the war, and which may have acquired, or sought to acquire, locations or rights, inchoate or otherwise, upon the public domain, from perfecting such claims, would such claims be barred by the provision referred to?

Mr. McMahon. They would not be barred.

Mr. O'Mahoney. Such claims would not be barred?

Mr. McMahon. They would not be barred.

Mr. O'Mahoney. I believe that such claims should be barred, and I shall endeavor to write an amendment which I should like to present for consideration. I think it is rather difficult to conceive that the Senate would be willing to pass a bill which would permit any corporation, association, or individual who participated in the Manhattan project, or any other project, to take advantage of such participation to assert rights upon the public domain.

Mr. McMahon. If the Senator will read carefully the provision written to take care of the public lands, he will find that if there is a perfected claim the owner of such claim can proceed to prospect it and mine it, but when he has separated the uranium from its place in nature, then he must get a license from the Commission to move it, and he must sell it to the Commission. I might say to the Senator that all that he is compensated for is the digging, the exploring, the taking it out of the ground.

Mr. O'Mahoney. No compensation is allowed for the value of the material itself?

Mr. McMahon. To those who go down to the Interior Department today, after the passage of the pending bill and file a perfecting claim, no compensation will be paid for the material itself. In the case of those who have perfected claims on the public lands, the Commission would be empowered to make compensation for the material itself.

Mr. O'Mahoney. Mr. President, I am talking about a specific class of claimants, namely, claimants who might possibly, for the purpose of acquiring private rights have utilized their access to secret information, and their access to a development which was made possible by the appropriation of billions of dollars of public funds. I cannot believe that the committee would leave the door open to such a raid upon the public domain and upon the Public Treasury. Not that it may have happened; I have no reason to believe that it ever did happen, but certainly the door should not be left open.

Mr. Johnson of Colorado. The Senator will discover, if he reads carefully the provisions of the bill, that the Government itself has a complete monopoly of all fissionable materials.

Mr. McMahon. All source mate-

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rials, as well as of fissionable materials.

Mr. Johnson of Colorado. All source materials. Of course, we could not do violence to anyone who had a claim on the public domain, but he cannot market, really, any of this material. There is only one market, and he has to take the price that is offered him by the United States Government.

Mr. O'Mahoney. I submit that the Senator does not concentrate his attention upon the point I am asking. I have no desire to deprive a person who in good faith made a location upon the public domain of the right to complete the location, provided such a person was not in privity with the atomic project. I think any person who was in privity with the atomic project should not be entitled to any benefit whatsoever.

My thought is, Mr. President, that there should be added at the appropriate place an amendment which would read something like this:

> *Provided, however,* That no person, corporation, partnership, or association which had any part, directly or indirectly, in the development of the atomic bomb project, may benefit by any location upon the public domain taken after such person took part in the project.

Mr. Johnson of Colorado. Mr. President, the amendment which the Senator proposes is not necessary at all because there has been no occasion of that kind. No corporation or person, up to the present moment, has made one red cent out of the mining of uranium ore.

Mr. O'Mahoney. I am not talking about what may have been done in the past; I am talking about what may be done in the future. I know that the air was full of rumors of efforts upon the part of some who were in privity with the project to obtain rights upon the public domain. Whether there is any basis for those rumors, I know not, but certainly the amendment which I now suggest would harm no person who was in good faith. It would deprive no bona fide locator of any right, and it certainly would not be disadvantageous to the Government. I suggest that the committee accept the amendment and take it to conference, so that the matter may be surveyed.

Mr. Johnson of Colorado. The holder of such a claim as the Senator described cannot make any profit out of it. He has to sell all the source material to the Government at the Government's price.

Mr. O'Mahoney. What of it?

Mr. Johnson of Colorado. Who is going to make any "killing" on that kind of a proposition? It simply is not within the provisions of the bill for anyone to make a profit.

Mr. O'Mahoney. Mr. President, all I know about the bill is what I have read in the report, at which I just glanced, and in the print which appears before us, on page 43, I find this language:

> All uranium, thorium, and all other materials determined pursuant to paragraph (1) of this subsection to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the public lands are hereby reserved for the use of the United States; except that with respect to any location, entry, or settlement made prior to the date of enactment of this act no reservation shall be deemed to have been made—

Mr. Johnson of Colorado. "If."

Mr. O'Mahoney. Mr. President, I think, perhaps, rather than by the proposed amendment I dictated while

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extemporaneously talking about the matter, the idea I have in mind would be much better by striking out the words "prior to the date of enactment of this act", and substituting in lieu thereof "prior to the date of the beginning of any Government experimentations for the development of the atomic bomb."

Mr. Johnson of Colorado. The Senator did not finish the sentence he was reading.

Mr. O'Mahoney. Very well, I shall finish it.

Mr. Johnson of Colorado. Beginning with the word "if" in line 13, I wish the Senator would proceed.

Mr. O'Mahoney. I read:

> Shall be deemed to have been made, if such reservation would deprive any person of any existing or inchoate rights or privileges to which he would otherwise be entitled or would otherwise enjoy.

In other words, at any time from now on until the bill is signed a right may be asserted, and by this language it is protected, no matter by whom the right is claimed. It may be made by any person who participated in the atomic-bomb project. Certainly, Mr. President, it is not the intention of the committee to grant such a wide-open opportunity for the exploitation of the public domain. I certainly hope the amendment which I have suggested will be accepted by the committee and taken to conference.

Mr. Johnson of Colorado. I wish the Senator would proceed and read at the bottom of page 43, beginning with the word "any"; I wish he would read that language in connection with the language which he has just read.

Mr. O'Mahoney:

> The Secretary of the Interior shall cause to be inserted in every patent, conveyance, lease, permit, or other authorization hereafter granted to use the public lands or their mineral resources, under any of which there might result the extraction of any materials so reserved, a reservation to the United States of all such materials, whether or not of commercial value, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby.

Mr. President, the reading of that sentence to my mind only increases the confusion and proves emphatically the necessity for writing into the bill such an amendment as I suggest.

Mr. Johnson of Colorado. Will the Senator proceed and read the rest of the paragraph, beginning with the word "any."

Mr. O'Mahoney. What I am unable to understand, Mr. President, is why the Senator resists a perfectly simple amendment that can cause no trouble to any person who has acted in good faith. All in the world I want to do is to close the door to a possible wrong, and certainly no member of the committee can take the position that it is the desire of the committee to permit any person who had any part whatsoever in this tremendous public expenditure for the development of fissionable materials to assert and maintain any claim upon the public domain to deposits of such materials.

Mr. Millikin. If I understand the purport of the distinguished Senator's suggested amendment, it might put the Congress in the position of retroactively destroying the rights which the Senator knows a man who has made a valid location comes into even against the United States Gov-

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ernment. If there is a fraudulent location, no matter by whom made, then the law has many remedies for vacating such a location. If the location is not fraudulent I know of no way whereby we can retroactively exclude a man from those rights which he gets even against the United States government if he has made a valid location and has done the other things required by law to be done.

Mr. O'Mahoney. Of course the Senator is quite correct. I have no desire to block any such person, but I do have a desire to say in language that cannot be misunderstood that any person who benefitted by the tremendous expenditure of public funds, by the activities of scientists which were carried on in a patriotic effort to defend the Nation, shall be in a position to make a claim after he acquired secret government information. It seems to me outrageous, Mr. President, that such a possibility should be encouraged.

Mr. Millikin. I most respectfully suggest that, it seems to me, if a valid location has been made we can not upset it by retroactively declaring that because a man has been engaged in atomic energy work his location, because of that fact, retroactively has become fraudulent. I earnestly suggest to the distinguished Senator from Wyoming, who is so well acquainted with our western mining law, that that is something which would not be warranted.

Mr. O'Mahoney. Mr. President, the government of the United States made an appropriation and placed it under the highly secret custody of the President of the United States to be expended for the purpose of smashing the atom and developing the atom bomb so as to protect the very life of the Nation. That having been done, the scientists of the Nation, and of the world in some instances, were brought into an organization to search the country for deposits of fissionable material. Now shall we say that the mining law, which was intended to protect prospectors upon the public domain, shall be so interpreted as to permit those who were brought into this project by the government of the United States in defense of its life to assert title to the public domain?

Mr. President, it seems to me that the question answers itself. Let us consider this question Let us put the flashlight of public opinion on it. I cannot understand why the amendment should be resisted. If no wrong has been done, no one will be injured. If no advantage has been taken of the government and of the private and secret knowledge, no one will be harmed.

Mr. Millikin. I should like to suggest to the distinguished Senator from Wyoming that there has been no secret about the growing value of fissionable materials. In Colorado the humble man who has taken up a claim and developed such materials has been able to sell them for the first time and obtain money for them. He proceeds on his own expectations that a certain ore will be profitable if he can find it, and he locates his claims accordingly. I do not know of any facts which would sustain the fear of the distinguished Senator from Wyoming. What I am afraid of is this: I do not believe that we can now say that anyone who has made a valid location under the existing standards at the time he made it can be deprived of the location because he may have had inside information that such a location, if

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he could find the ore, might be valuable. I appeal to the Senator's wide experience in such matters, and suggest that we would be doing something that is not sound.

Mr. O'Mahoney. The Senator has answered himself. I say without any reservation whatsoever that no person having inside information—to use the phrase of the Senator from Colorado—should be permitted to profit by such inside information, since he secured it as the result of the appropriation of billions of dollars from the Treasury of the United States.

Mr. Millikin. Every mining prospector in Colorado who has produced fissionable material has benefited through the expenditure of government money for fissionable materials, and they have all acted on the expectation of profit.

Mr. Hickenlooper. I further suggest to the Senator from Colorado that most of them acted as employees, in one capacity or another, of the Manhattan project. Prospectors were prospecting for these materials all over the West, financed, in many instances, as I understand, by the Manhattan project itself. We would deprive those men of their livelihood.

If the Senator will further yield, I should like to suggest another phase. Are we to say to the atomic scientist, in a hastily drawn amendment applying to this particular subject, that as a professor in a university in years to come he may not use the information which he gained in the laboratory? Are we to say to the engineer who worked on the Manhattan project or the Hanford project, "You may not, as an employee of private industry, use the engineering techniques which were developed at government expense, and which form a part of your knowledge and capabilities"? Are we to say to persons who heretofore have validly, and without fraud, as suggested by the Senator from Colorado, located properties in connection with their business, in which some uranium may be found, "We are going to enact a retroactive statute destroying existing legitimate property rights"? I do not believe we can, unless we want to go into the brain of the scientist and deal with the handiwork of the engineer and say to him, "You may not use any of your engineering training or any of the education you have obtained in the Manhattan project, simply because you have obtained that information at government expense and as a part of the war effort."

Mr. McMahon. I may say to the Senator from Wyoming that I am no more anxious than he is, or than anyone else is, that anyone should profit at the expense of the government of the United States by taking undue advantage of a holding of public land. However, I invite the Senator's attention to the fact that if X corporation, which has been supplying uranium to the Manhattan project, extended its claims on the public lands for the purpose of obtaining more uranium to sell to the government, it would not profit to any appreciable or measurable extent, because the Senator will see in section 5, on page 42, that the Commission sets the price. The Commission is the sole effective possible buyer. If X company were not to take the price set by the only purchaser in America, the Government, which price would be based on the work of getting the material out of the ground, it would not be able to profit very greatly under the situation which the Senator has described.

Mr. O'Mahoney. Why permit the person who had inside information to acquire the title?

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What the Senator from Iowa has said in attempting to compare the situation which I have described with that of a scientist is utterly without basis. Of course there is no analogy whatever. I use again the phrase used by the junior Senator from Colorado—"inside information."

The absurdity of such a position is so apparent that I am utterly unable to understand why the members of the committee resist the suggested amendment.

Mr. Johnson of Colorado. I should like to ask the Senator from Wyoming if he has a provision which he wishes to insert after the word "enjoy" in line 15. Would he state his amendment in the form of a proviso, and what would the language of the proviso be?

Mr. O'Mahoney. As I stated to the Senator, I dictated a suggested amendment on the floor. Perhaps the official reporter who took down the amendment will come back and reread it. I would insert it precisely at that point.

Mr. Johnson of Colorado. I am sure that the committee would not resist such a proviso.

Mr. O'Mahoney. I invite the attention of the committee to the fact that at the beginning of sub-paragraph (7) on page 43 there is an express and complete declaration of a reservation to the United States of all fissionable deposits. That is followed by an exception. The deposits which are covered by the exception are not reserved to the United States. My only suggestion is that there be withdrawn from that exception all claims and locations of whatever kind or character which might be made by those who were in privity with the atomic-bomb project.

Mr. McMahon. I merely wish to point out to the Senator that the so-called chance for great profit which is at the heart and root of what the Senator is pointing out is illusory.

Mr. O'Mahoney. There is nothing illusory about it, if I may reply to the Senator, because what we are doing here is granting away a title to the public domain. The law which is proposed here may be amended next year. It may be changed in many particulars. The limitations upon profit may be withdrawn. But the title will still be given away.

Mr. Cordon. I should like to inquire of the Senator from Wyoming, if I may, whether he believes that the government of the United States can, by statute, take property rights created by a valid and subsisting mining location on the public domain?

Mr. O'Mahoney. Mr. President, I do not believe that a mining location made under the circumstances which I have described would be a valid mining claim which should be supported. Therefore the suggestion of this amendment is to eliminate law suits. Let us close the door. Let us take this amendment to conference, as I have said over and over again.

The point I make, Mr. President, is simply that where the people of the United States have spent billions of dollars of public money subscribed by the people of the United States who bought the bonds and paid the taxes to develop this program and to develop this project, and where by reason of that expenditure they sent their agents out upon the public domain—I say "their agents"; they are the agents of the people of the United States—then I say that as to those agents, those possessors of inside information, as the Senator from Colorado has so aptly termed them, nothing we write into this bill should undertake to protect them in obtaining title to the public domain.

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Mr. Millikin. I should like to make my position a little clearer. I am in accord with every ethical sentiment the Senator from Wyoming has expressed. I would no more go in the face of those sentiments than either of us would go in the face of the Ten Commandments.

My point is simply that we cannot retroactively attach the quality of fraud to something that was not fraudulent. If at the time of the location of a claim, locating it by inside information, under the circumstances described by the Senator, was fraudulent, then the claim is fraudulent without our saying anything about it. If it was not fraudulent, there is nothing we can say about it now, that would make it fraudulent then.

I think it is of the utmost importance, almost of vital importance, that this bill pass the Senate promptly and go to the House of Representatives and become the law.

So, merely to get it out of the way, and although I am in complete disagreement with the theory of the Senator from Wyoming, but not with the ethics involved, I am willing to accept the proviso in the hope that the conference will eliminate the amendment, so that we may not have a new crop of litigation, which we hope to avoid by this bill.

Mr. Murdock. I think the matter is too important to pass over hurriedly. In my opinion, the Senate of the United States simply should not, for the sake of expediency, adopt an amendment which would be retroactive as to vested rights.

I agree largely with what the Senator from Wyoming has said; but when rights are vested under any law of the United States, as they have been vested, according to the statement of the Senator from Wyoming, then how can we, as the Senator from Colorado has well pointed out, by statute do anything about them? I am a little surprised that any Senator would ask, for the sake of expediency or anything else, that the Senate put its stamp of approval upon that type of legislation.

Mr. McMahon. Mr. President, I should like to answer the Senator from Utah, if I may, with the permission of the proponent of the amendment, by saying that if the theory of the Senator from Wyoming is correct, namely, that as a result of the acquisition of inside information persons went out on the public lands and filed claims for future use and for future development I do not think that with regard to the legalities of the situation we are doing any violence to the laws based on ethics as to the amount of profit which such a proponent of a claim may have.

Mr. Murdock. Mr. President, I will say to the Senator that we may have a perfect right, so far as fissionable material is concerned, to reach out and take it when it becomes personal property of the miner who has located the claim. But if we take the position today that we can retroactively destroy a vested title or a vested possessory right merely for the sake of expediency, then we can do it on any occasion for the sake of expediency. Mr. President, I simply do not believe the Senate of the United States should engage in

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FORUM: SHOULD WE RETAIN

YES!

By Robert Clarkson

WITH the attack on Pearl Harbor, December 7, 1941, the United States became acutely aware of the Pacific Ocean. The four year struggle from Midway to Okinawa made the lasting impression on us that the Pacific islands are intimately connected with our national security.

During the war, the United States was finally successful in building and maintaining a network of military bases in the Pacific which were essential to bringing about the defeat of Japan, and the complete victory of the United Nations over the Axis powers.

PROBLEM

Since the war, the question has arisen of what to do with the Pacific bases which include United States' island possessions acquired before the war, islands held by Great Britain and the United States jointly, Australian mandates, the islands captured from the Japanese, and the former Japanese mandates: the Marshalls, the Carolines and the Marianas.

The armed forces and Congressional committees have strongly recommended that we retain the Pacific bases. The State Department announced its position on November 6, 1946, in a draft trusteeship agreement for the Japanese Mandated Islands. This draft was presented for the information of the members of the Security Council of the United Nations and to New Zealand and the Philippines in conformity with Article 83 of the United Nations Charter.

HISTORY OF PACIFIC POLICY

Thus, the State Department, Congress, the Army and Navy and the President have stated their recommendations in regard to the Pacific bases. We agree with the official viewpoint of the government that the United States should retain the Pacific bases deemed necessary to national security, remain sole administrator and keep within the terms of the United Nations Charter.

Before we examine the United States trusteeship proposals, we must look at the history of the United States interest in the Pacific. This dates back to the early part of the nineteenth century when President Madison approved an expedition of discovery to the Pacific. From that time, in progressive steps, the commercial interests of the United States have necessitated naval protection of commerce; later civil protection was promoted by United States Consuls in Hawaii, Tahiti, the Fijis and Australia. In the second half of the century, we acquired Alaska, the Aleutians, Midway, Guam, Wake, parts of Samoa and the Hawaiian Islands. At the present time,

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OUR PACIFIC BASES?

NO!

By Sylvan Kling

HAVE you ever stopped to ask yourself, "Why did our government spend so much time and money on the Bikini atom bomb tests? Why did it seem so imperative to subject goats, pigs and white mice to the same treatment as battleships and aircraft carriers? Why was information needed?"

The answer is obvious. The atom bomb is something new, something terrible. We must find out about its potential and its destructive force. We must know these things so that we can apply them in some future war, and we must know the defenses against these awe-inspiring forces in case an enemy should turn them loose upon us. The Army and Navy are looking at the practical side of the problem: let's prepare now for any possible future war. And, in the same vein, our legislators are looking ahead to another war. They want the United States, either outright or under some special provision of the United Nations organization, to control the bases in the Pacific Ocean that we wrested from the Japanese in World War II.

ARGUMENT

The argument of these legislators is a good one. It is both patriotic and sincere. "We fought to occupy these islands; now, let us maintain control of them so that we will never have to sacrifice American lives to win them back a second time." Why risk having a foreign country take control of bases that might prove vital in a future war? Why risk letting an enemy nation launch an invasion against the United States from one of the islands that we used to send our bombers to level Japan?

It is a logical argument based on the pattern of the Second World War in the Pacific. The United States lost thousands of its young men in invasions of rocky atolls which were jumping-off points for invasions of other atolls. It was a process of stepping from one island to another across the wide expanses of the Pacific in an effort to take that final step to the mainland of Japan.

But the legislators are missing one important point: in the future, we will not follow what is today considered the conventional pattern of warfare. Tomorrow's war will not be a step-by-step invasion across an ocean to attack the enemy on his home grounds. Tomorrow's war will be a cross between the closing stages of World War II and the Buck Rogers type of warfare.

You have read about guided missiles—offsprings of the V-1 and V-2 terror rockets that the Germans used against London and Southampton. You have seen newspaper pictures of experiments being conducted with super-

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in addition to these, the United States has Kure, Johnston, Sand, Kingmen Reef and Palmyra islands in the Central Pacific; and in the South, Howland, Baker, Jarvis, and the islands jointly controlled with the British, Canton and Enderbury.

The reasons for our acquiring the Pacific territories are numerous. Among them is the fact that we found ourselves in a period of tremendous commercial expansion. The defeat of Spain left the Spanish colonial empire without protection, and the victor assumed responsibility for the dependent peoples. The construction of the Panama Canal greatly increased the commercial importance of the United States, necessitating a corresponding expansion in naval protection.

Up until 1941, fortified bases, forming a chain from Alaska to Hawaii to Panama, were our first line of defense, but the disastrous attack on the key position at Pearl Harbor showed us the danger and the inadequacy of this frontier. It also demonstrated the importance of maintaining a network of fortified supply bases, strategically placed from North to South across the Pacific as the first line of defense of the United States and of the entire Western Hemisphere.

In recent months, the Army and Navy have revised their plans for the Pacific bases with a more realistic eye toward expense and more practical analysis of our strategic needs. The recommendations are tentative but include abandonment of the Leyte-Samar base area in the Philippines and retention only of the submarine base at Subic Bay, the airfield at Sangley Point and an anchorage at Tawi Tawi. In addition, the Navy plans to cut the planned expenditures for Guam, to concentrate most naval facilities in the Kwajalein area of the Marshall slands, to expand the Kodiak base and maintain it as the principal base in the Aleutians.

The Navy plan for our strategy in the Pacific includes large installations in Hawaii as the key position, and in the Guam-Saipan-Tinian area with Kwajalein and Kodiak as secondary bases.

Majuro would be virtually abandoned as a base. Most of the other Japanese Mandated Islands should be retained in caretaker status, and held in such a way that temporary fortification could be installed quickly should the need arise.

The Army's plans are likewise tentative, but since the political situation in the Philippines makes it appear impractical to maintain their former plans for installations there, the army may plan to fortify Okinawa, which is almost as useful for strategic purposes as the Philippines and can be defended more easily.

With the United States' plans for Pacific defense in mind, we should examine the Trusteeship chapters of the United Nations Charter, since the United States intends to carry out its defense plans under the United Nations trusteeship system.

Trusteeship, under the United Nations Charter, is flexible in two points: (1) It does not require that any particular territories be made trust terri-

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tories; (2) The Charter provides that the terms on which the administering authority governs its trust territory will be a matter for individual agreement between the United Nations and member nations. It is implied that the trusteeship council will be able to call for reports from the administrative authority and make periodic visits and accept petitions from the inhabitants of the trust.

TRUSTEESHIP

Trusts are classified by two types: (1) non-strategic trust territories which are under the jurisdiction of the General Council; (2) strategic territories under the jurisdiction of the Security Council. Opinion concerning the trusteeship system is highly divergent because of ambiguity in Article 79 of the United Nations Charter. It provides that the terms of trusteeship "shall be agreed upon by the states directly concerned, including the mandatory power."

Who is directly concerned? On November 7, 1946, Mr. John Foster Dulles of the United States delegation, stated the contention that it is legally proper as well as the fairest and most workable procedure in the case of mandated territories to interpret the article to mean that only the mandatory power is a "state directly concerned." He proposed that powers possessing League of Nations mandates shall draw up the terms of trusteeship for approval of a two-thirds vote by the United Nations Assembly. This would, of course, eliminate Russia and China as states concerned.

With the announcement of the United States draft trusteeship proposals on November 6, 1946, for the Japanese Mandated Islands, the United States' position has been clarified. President Truman's further statement on November 6 indicates that the United States is prepared also to place under United Nations trusteeship, with the United States as administrative authority, any Japanese Islands for which this country "assumes responsibilities as a result of the Second World War." These announcements show that the United States is not out for annexation by right of conquest.

The United States set forth the terms to the Security Council on which it will apply for the position of administrative authority over the Pacific islands, formerly under mandate to Japan—a territory which the United States proposes be designated as a strategic area.

ADMINISTRATIVE AUTHORITY

The United States proposes to have full powers of administration, legislation and jurisdiction over the territory, and pledges itself to the maintenance of international peace and security and, consequently, proposes to be entitled:

(1) to establish naval, military and air bases and to erect fortifications in the trust territory;

(2) to station and employ armed forces in the territory;

(3) to make use of volunteer forces, facilities and assistance from the trust territory in carrying out the obligations towards the Security Council . . . as well as for the local defense and the maintenance of law and order within the trust territory.

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The United States also requests the right to regulate the flights of foreign aircraft in the strategic area.

The United States accepts the responsibility of fostering the development of political institutions and giving the inhabitants of the territory a progressively increased share in the administrative services of the territory; of promoting economic, social and educational advancement, and the self-sufficiency of the inhabitants. We insure this to nationals of each member of the United Nations. We guarantee to the inhabitants all the freedoms we enjoy and reserve the right to make the territory into a customs or administrative union with other territories under our jurisdiction. The agreement, once signed, cannot be terminated without our consent and must be approved by unanimous vote of the five permanent members of the Security Council.

We have already pointed out the strategic importance of the Pacific bases to Western Hemisphere defenses, for once fortified, these bases form a protective barrier for Central and South America and Canada, as well as the United States. The Second World War taught us the lesson that military preparedness is a preventative of external aggression, and that our Pacific coast is completely vulnerable to attack without the protective rim of military bases.

The proposed Inter-American Military Cooperation bill indicates a realization of the importance of hemispheric unity for security, and of the fact that a threat against one member is a threat to all.

Only slight investigation into the statistics of the military and naval power of the South American countries, Canada or Mexico reveals that the United States is the only nation able to protect the Western Hemisphere, and the only one vitally concerned with the protection of our western coast.

If the United States should be blind enough to abandon the Pacific bases, what other power should have them?

ALTERNATIVES

They cannot be returned to either Japan or Germany. They should be administered by a strong power, a power with no thought of aggression or expansion. Certainly Australia could not support, in the foreseeable future, an extensive navy, nor China wracked by civil war, nor Korea!

When we look at our past record in administration of the Pacific islands, we see a great deal to justify the belief that the United States will adhere strictly to the terms offered in the draft proposal to promote the economic, social and educational welfare of the inhabitants.

First of all, the United States, with a chain of military installations built on the islands, has swift communication between them. Secondly, the existence of our military installations, their reconstruction and repair, give us a particular interest in efficient administration and general welfare of the islands. The United States has in a large extent the good will of the inhabitants of the islands. One significant example was the loyalty of the Chomorros on Guam.

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The United States is undertaking a gigantic plan of reconstruction on Guam. This does not mean military reconstruction alone, but includes the work of a city planning commission to rebuild the cities on Guam. At the present time, we are also planning a program of native education by native teachers.

In the task of promoting the economic, educational and social welfare of the 70,000 inhabitants under the former Japanese Mandates, what better encouragement could there be, both for the administrator and the people, than the example of the complete independence of the 16,000,000 inhabitants of the Philippines achieved on July 4, 1946.

Should the United States take on the administration of these islands, it is quite conceivable that we would adopt a centralized administrative office under the executive branch—a Department for Dependent Peoples. This administrative change would improve our present system by framing a consistent policy, carried out by trained administrators, and it would remove the possibility of autocratic military rule.

On the basis of the lessons learned in our recent defeats and on the considered opinion of military experts, it remains clear that the Pacific bases are of the greatest strategic importance to the United States. Since the termination of the war, we have undertaken the responsibility for administering the Pacific islands, and now we have pledged ourselves to the task, in keeping with the terms of the United Nations Charter. We have shown that the United States is the only power eager to accept the responsibility for the Pacific bases and is the best one qualified to do so.

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rockets that are sent screaming into the stratosphere. You have heard worried rumors of deadly bacteria bombs, guaranteed to wipe out an entire nation in a week. . . .

And you have heard this talk about holding onto our island bases in the Pacific!

OBSOLETE STRATEGY

Let's drop this nonsense about having to maintain armed outposts to be used as stepping stones in "the next war." In "the next war", we won't use such obsolete tactics. Island-by-island invasions will be relegated to the history books just as the battering rams of the Greeks and the flaming arrows of the American Indians have gone down in history as remarkable weapons for their time—but hardly practical today.

Names like Guadalcanal, Okinawa, Tarawa, Iwo Jima and Corregidor will give way to such terms as "supersonic", "jet-propelled", "radar-guided", and "atomic." We won't need sandy strips for our airplanes to land, refuel, reload and take off again. By the time "the next war" comes around, airplanes will hop from continent to continent, across oceans and back again.

Remember that we didn't actually have to invade the mainland of Japan in order to force that country to surrender. We first defeated the Japanese

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Navy. Then we picked off Japanese freighters and merchant vessels in a war of attrition. We levelled the cities of Japan with bombs. And then we forced the issue by two well-placed atom bombs. Hiroshima! Nagasaki!

That last process is the pattern for the future.

Our engineers and scientists have come up with plans for huge bombers — huge by new proportions—that will fly non-stop from California to Japan and back again to California. In World War II, our latest bomber was the B-29; today the B-36 is being flown and tested so that the B-40's and B-60's can be further improved as they sit upon the drawing boards in aircraft laboratories. Remember the air raid drills we had between 1941 and 1945 because the possibility of long-range German bombers was too real to overlook? Just wait until "the next war!"

Frank Williams in *The Detroit Free Press*

"THE LESSON OF THE ATOM"

Are we overworking that term "next war?" Then why are we so anxious to control Pacific bases? Why are scientists working overtime with the atom bomb and the jet-rockets and the guided missiles? Why are bigger and better weapons of death being developed?

I said before that the plan for United States control of Pacific bases is sound patriotism. But let's be practical about it. In a future war, those little bits of sand and rock won't do us or an enemy much good. If a rocket can sail 10,000 miles from an *island* to a mainland, then that same rocket or its cousin will sail 30,000 miles from a *mainland* to a mainland. In plain, cold, objective reasoning—why fool around with dots of coral reefs when we will be dodging atom bombs and launching atom bombs! In a game of chess, you don't move the rooks or pawns when the King or Queen is in jeopardy—unless those chessmen will save the King or Queen. In future wars, the enemy piece will hop over the pawns and strike the King directly. Maybe we would all be better off on those tiny islands while the rival military machines are blowing the giant continents to pieces.

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There are a number of non-military reasons why we should forfeit our claims on those Pacific bases. The most popular is that we are becoming "imperialistic." Does anybody pretend that the United States is not imperialistic? Then let him explain the Louisiana Purchase, the Gasden Purchase, Puerto Rico, the Virgin Islands, Guam, Wake, Midway and the acquisition of many other territories. Why shouldn't we be imperialistic in an era when Great Britain has the empire upon which the sun never sets; when France and Spain and Holland own territory in Latin America and the Indies? Russia is interested in the Balkans, and before she surrendered, Japan had Manchuria, the Marianas and more. If the fear of "American Imperialism" were the only barrier, we could easily control the Pacific bases without a guilty conscience.

IMPERIALISM

A second charge is that if America asks and gets control of bases, what is to stop Russia from trying to get bases too? It's a story of what's sauce for the goose is sauce for the gander.

The most ardent diplomats protest our eagerness to annex the islands by claiming that under the Charter of the United Nations, and under the Atlantic Charter, this country solemnly pledged that it would allow all countries to choose their own form of government after the war. We announced that we were not fighting for territorial aggrandizement. To seize control of former Japanese-owned islands now would be a violation of our sacred oath. A great nation cannot, like the petty politician, make promises and then ignore them.

Other arguments in opposition to America's control of Pacific bases point out that such bases would be difficult and expensive to administer. We could keep only a skeleton military force on any of them, and because of this and their distance from the United States, morale would be low among the men on the islands. The Pacific bases are in a hot, sultry climate, plagued with mosquitoes and malaria. The number of former servicemen still hospitalized by the effects of malaria and other unknown tropical diseases makes this a valid argument. Historians argue that in the past, America's record as a mother nation to such islands is not a proud one, and that the islanders themselves would naturally resent our intrusion. During the Pacific campaign, the natives often called attention to the fact that they were better treated by the Japanese.

FORTIFICATIONS UNTENABLE

More practical minded men in the military remind us that we once did have possession of Pacific Islands and look what happened! Our great naval base at Pearl Harbor was destroyed in one morning! Wake Island was captured despite superhuman resistance. The Philippines were overrun and the great bastion of Corregidor, considered almost impregnable, was forced to surrender.

Likewise, we later took these islands back (at terrific loss of lives) despite the elaborate systems of caves and fortifications that the Japanese

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had set up during the years they were in possession of those islands. Despite the depth of fortifications, the miniature Maginot lines they had prepared, we were able to invade and capture them. In other words, the islands were untenable as fortifications. As bases they were vital, of course—but that was the last war. Today, any type of fortification would be obsolete in a matter of months.

But these arguments are for the diplomats to work out. Looking at the matter from a purely objective viewpoint, and remembering that above all, we are interested in watching out for our *own* welfare, we might as well let the islanders rule themselves while we carry out further scientific investigation and research. The best answer might be to control the islands *and* continue our scientific programs, but remembering the arguments about "keeping our sacred word" and "let's not be imperialistic and tempt Russia to grab territory, too," the most logical and purely selfish thing to do would be to turn the Pacific bases over to the United Nations. We would thereby be doing the gentlemanly thing, and yet would not be jeopardizing our national security.

FUTURE WARFARE

Let's examine some of the possibilities of future warfare that were briefly alluded to in the beginning. All of them are either actualities or definitely on the way. Here are some quotations from authoritative articles:

"Today, planes without crews can be flown almost anywhere and can even survive—as the drones at Bikini proved—the atomic cloud. What this means to the future of warfare requires little imagination to conceive. In effect, they are missiles—expendable 'Kamikazes' minus pilots. . . . Fleets of drones could probably saturate the air defenses of any city or area in the world. . . . Drones in great numbers controlled by mother planes well beyond anti-aircraft range could crash at night into naval bases or factories. . . ."

"Another possibility is an atomic super-bomb, and many people have cast frightened glances at the so-called lithium reaction which is known to power some of the stars."

"At Bikini, a naval era ended; the fighting fleets of World War II sailed to join the great and ghostly armadas of Drake and Nelson, Farragut and Dewey. . . . Our Navy of tomorrow may well be composed of great numbers of fast, lightly armored ships for launching planes and missiles; crewless (radio-controlled) craft for launching rockets; and long-range, atomic-powered submarines."

"Twice as fast as sound! That will be the speed of our supersonic air force of tomorrow. The warbirds will come silently at 1500 miles an hour. Sound will be left behind."

"With the roar of a thousand freight trains, the 14-ton missile, a giant 'cigar' as long as a three-story building, streaked 72 miles up into the ionosphere. . . . Two hours later a smaller rocket was launched. This one was 16 feet long and weighed 700 pounds. It attained an altitude of 43 miles. . . ."

"Perhaps not a ripple will disturb the surface of the surrounding water

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as the zero-hour approaches—but underneath . . . a fleet of atom-powered submarines will streak toward their objective. Moving at possible submerged speeds of 60 or 70 miles an hour will be huge troop carriers, aircraft carriers, mobile weapon units, artillery carriers, and even fully equipped hospital submarines. . . ."

"The guided missile should travel at supersonic speeds. . . . It will be fired toward the roughly predicted position of the target. The target will be radar tracted. The missile will be radar controlled from the ground."

"The long range guided missile will have flight characteristics which might make interception possible. A defensive guided missile will, of course, be the answer against it. This defensive missile should have a speed greatly superior to the attacking missile. It will be positively launched and directed by radar all the way to the target. This will require combination pick up and missile guiding radar. . . . Radar will have to discriminate by coded signals between our own and enemy projectiles."

REFERENCES

PERIODICALS:

Baldwin, Hanson W., "A-Bomb Dates Our Navy," *Science Illustrated,* September, 1946.

Baldwin, Hanson W., "Latest Wonders of Pilotless Flight," *Science Digest,* November, 1946.

"Guam Looks to the U. S. A.," *Asia,* July, 1946.

Hitch, Thomas K., "Administration of America's Pacific Islands," *The Political Science Quarterly,* September, 1946.

Ickes, Harold, "The Navy at Its Worst," *Colliers,* August 31, 1946.

LeMay, Major General Curtis, Deputy Chief of Air Staff for Research and Development, "Our Supersonic Airforce," *Mechanix Illustrated,* October, 1946.

Levi, Werner, "The United States and the Pacific Bases," *Fortnightly,* September, 1946.

Ley, Willy, "Atomic Sub vs. Atomic Bomb," *Mechanix Illustrated,* October, 1946; "Deadlier Than the Atom Bomb," *Mechanix Illustrated,* December, 1946.

Lippmann, Walter, "Choice in the Pacific," *Forum,* April, 1946.

Toftoy, Colonel Holger N., Chief, Rocket Development Division, U. S. Army, "Man-Made Meteor," *Mechanix Illustrated,* September, 1946.

Trumbull, Robert, "A Swing around Our Pacific 'Empire'," *The New York Times* Magazine, May 19, 1946.

Trumbull, Robert, "Billions in the Mud: Pacific Bases," *Colliers,* September 28, 1946.

BOOKS:

The War in Maps, Text by Francis Brown, maps by Emil Herlin, Oxford University Press, 1942.

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that type of legislation, regardless of ethics or anything else.

Mr. Ferguson. Mr. President, it appears to me that we should take a little more time and should devote a little more attention to the problem now before the Senate; namely, this amendment. I agree wholeheartedly that if any person, corporation, partnership, or association by fraud has acquired land or property rights in our public domain, we have the power, under this amendment, to take those rights from him. If one has committed a fraud upon the government by entering upon the public domain and obtaining rights, he should not be entitled to them. If he has, however, at the time he acquired his rights obtained them legally under the law, we should not attempt to take them away without due process of law. We cannot by the adoption of this amendment take away such rights legally acquired merely because the person who acquired them was an employee. To do so would be taking private property without just compensation in violation of the fifth amendment of the Constitution which provides, in part, "nor shall private property be taken for public use, without just compensation."

This bill could not take away legally vested rights without just compensation, and what is just compensation is a judicial and not a legislative question.

Mr. Johnson of Colorado. Mr. President, I have tried to consider the amendment offered by the Senator from Wyoming [Mr. O'Mahoney] within the few minutes at my disposal. I see no harm in the amendment, because there simply is no such case as he describes. He is trying to cover what is only a theory. Therefore, I see no harm in accepting the amendment and allowing it to go to conference. I agree wholeheartedly with what my colleague has said, and with what has been said by the Senator from Michigan. But inasmuch as the amendment is entirely harmless, I see no reason why it should not be agreed to.

The Presiding Officer. Will the Senator from Connecticut state whether or not the committee accepts the amendment which has been offered by the Senator from Wyoming [Mr. O'Mahoney]?

Mr. McMahon. We accept the amendment.

Mr. O'Mahoney. I thank the Senator.

The Presiding Officer. The question is on agreeing to the amendment offered by the Senator from Wyoming [Mr. O'Mahoney].

The amendment was agreed to.

• It's all in the uniform: an elderly woman forced a dime upon a state patrolman who had helped her cross a busy street, saying: "I know you Boy Scouts are not supposed to accept tips . . . but you can put this in the troop treasury if you want to."

• The scientific point of view:

When an atomic scientist was asked by a worried friend if the A-bomb could destroy the world, he replied: "After all, even if it should, it isn't as if the world were a major planet."

• Louis Harris, a Chicago meat dealer, has asked the court for permission to change his name to Harlampopoulas. Most of his customers are Greek and cannot pronounce "Harris".

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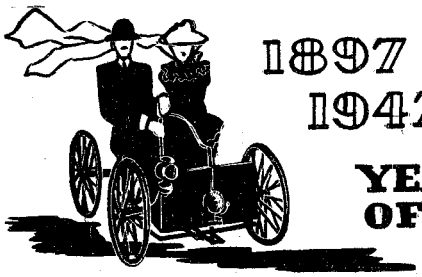

1897 - 1947 50 YEARS OF FORUM

Turning back the calendar 50 years to 1897, we find startling historical parallels reflected in the pages of FORUM. McKinley's Republican administration takes office; the labor movement and the Coal Strike are discussed by Samuel Gompers; James Bryce remarks on "The Policy of Annexation for America":

> *The argument most frequently used in the United States, to recommend the annexation of Cuba and Hawaii, is that their annexation would strengthen the strategic position of America, by giving her two points of naval vantage—one commanding the Caribean Sea and the other the Eastern Pacific; thus protecting her southern and western coasts.*
>
> *. . . Unless the United States desired to undertake some war of aggression, also an improbable hypothesis,—she has no occasion for a navy equal in numbers and armament to the navies of the greatest European powers.*

Co-education comes up for discussion by Oscar Browning—"In a set, formal lecture the presence of women may possibly be a help, provided they do not occupy the best places and keep out the men; but serious and searching instruction is made more difficult by their participation in it."

> *A modern American merchant marine became a possibility from the time that a liberal policy of naval construction was undertaken under the first Administration of President Cleveland. Legislation and the raising of the American flag over the "New York" during President Harrison's Administration made the possibility a probability. The launching of the "St. Louis" under President Cleveland's second Administration, made the probability a fact.*

". . . As despotic, Russia ought to be thwarted in every way; as liberal, she ought to enjoy all the rights of liberal nations, and be permitted to have her own way in Turkey and China, just as England has had hers in Egypt and India. A liberal Russia, with her long-cherished ambitions once satisfied, would be not only the peacemaker of Europe, but also one of its most potent civilizing influences."

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The Veto

Is the veto inevitable? a safety valve? Is Russia the villain?

BLOCK TO VETO REFORM

The veto, so often abused by its permanent custodians, the Big Five, was neither abolished nor modified at the recent session of the United Nations Assembly.

The fight on this special privilege which, as long as it exists, cripples the United Nations as a fully effective medium of peace, was brought into the open by Australia, Cuba, New Zealand, the Philippine Republic, Argentina and El Savador. Their endeavors were checked by the statement on American policy on the veto by Senator Tom Connally, chairman of the Senate foreign relations committee.

Connally, in one of his more picturesque orations, said that "any amendment to the charter is impossible at this time." It is impossible only because the powers which control the United Nations and can veto any attempt to change the veto make it impossible.

In his program outlining this government's attitude, however, the Texas senator expressed some vague hope for the future. He said that members of the Security Council "have no right to cast a vote in any narrow or nationalistic or selfish interest." He admonished: "Let there be no embezzlement of power by the Security Council or any member."

It is Connally's opinion, and, therefore, that of the United States, that the Security Council itself must make whatever changes it believes required. He called for "as complete a list as possible of types of decisions where the veto does not apply."

These words must be described as generalities Were the United States really concerned to put an end to the abuse of the veto, it would have presented a resolution detailing the ways and means in which the exercise of the veto was to be limited. It lost no time in confronting the United Nations with a pact entitling it to sole trusteeship in the strategic areas containing the Japanese mandated islands. It is strange that it was not just as specific and determined to implement the senator's proposals.

There is another strange aspect to this argument. The Amer-

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ican stand found great favor with the Russians and with the Soviet puppet states. One of the tragedies of the times is that the United States and the Soviet Union can reach full agreement on a negative attitude but can reach no agreement on the most minor positive attitude.

—The Cleveland Plain Dealer

THE VETO AGAIN

Cuba's Dr. Guillermo Belt made a strong plea for the abolition of the great power veto. The views he expressed with great ardor and real eloquence in the United Nations Assembly's General Committee undoubtedly reflects the views of many small nations. But it is certain that his plan to amend the Charter to do away with the veto will get nowhere. The fact is that the same five great powers which possess the veto are legally in a position to exercise it to block amendments curtailing its use. So, regardless of the feelings and wishes of possibly the great majority of United Nations members, the veto will not be eliminated.

However, the veto can and ought to be restricted to its basic purpose, which is to prevent the Security Council from voting a program of military or other sanctions without the consent of all the powers upon which would be placed the major burden of carrying it out. As Paul Hasluck, the Australian delegate, pointed out, the veto has been used thus far for very different purposes.

Ten times the veto has been used to block action approved by the great majority of the Security Council—with Russia, in each instance, the user of the veto. And, in addition, there were, the Australian delegate said, various occasions on which the threat of the veto affected Council action. Indeed, the Soviet government has reached the point, in its application of the veto, where it claims the power to bar action even on procedural matters in which it deems the intent of the resolution to be a matter of substance.

Mr. Hasluck took the realistic position that since there is no possibility of the great powers, particularly Russia, agreeing to an amendment of the Charter eliminating the veto, no remedy for the recurrent abuse of the veto can be sought in the Cuban proposal. He has proposed, instead, that the Council clarify its rules of procedure so that the veto provision will not be applicable to the peaceful settlement of international disputes and will be in line both with the letter and the spirit of the Charter. He would appeal to the permanent members of the Security Council to exercise moderation in their use of the veto.

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Whether the Council can and will act on this reasonable appeal remains to be seen. It is, in the last analysis, up to Russia to decide whether she wants to remain the great anarch in the world organization or adopt a policy of real cooperation. She and her satellites have been making the welkin ring with their insistence on the need of great power unanimity, which is their particular euphemism for the great power veto. But the unanimity which Russia has thus far sought to achieve in the Security Council has been a unanimity achievable only through the continuous acceptance of the Russian view by the other permanent members of the Council. The small power revolt in the Assembly against the lamentable abuse of the veto by the Soviet Union is a symptom of growing world irritation with the manner in which the Kremlin has reduced the Council to helplessness.

—*The Washington Post*

CURBING THE VETO POWER

Essentially the veto exists because each member sits at the Security Council as a national entity. It is the old problem of sovereignty; you cannot create a true world sovereignty without merging into it some portion of national sovereignties. In the present state of affairs, not much can be done about this. Certainly the United States itself would not give up the final right of veto. Much can be done, however, in moderating exercise of the right. Much can be done in removing the basic suspicion between Russia and the West, and in preventing use of the veto from contributing to mutual distrust.

The Western powers have been rather smug in the claim that they have not themselves resorted to the veto. But who shall deny that this came about only because we didn't have to? We had the supporting votes, and Russia didn't. It is drawing a fine line to say that a negative vote is a veto when cast solo, but something else when supported by others.

In its positive aspect, the veto question may be stated thus: "When shall the Security Council require unanimity of the Big Five in order to act?" Granted Russia's understandable reluctance to accept a consistently minority position, still it is desirable to avoid a situation in which the council, when dealing with issues short of sanctions, must act as Russia wants or not at all. This could lead to impotence and utter loss of confidence in the council.

Originally the purpose of the veto was to require unanimity on substantive questions that might lead to the application of economic or military sanctions. It was realized that, since the Big Five had to enforce such decisions, they could not be expected, as sovereign powers, to join in enforcement unless they agreed with the decision.

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Is it not stretching things to say that unanimity should also be required at every stage of every dispute? In the major cases (particularly that of Spain), Russia has used the veto, not because she disagreed with a course likely to involve sanctions, but because she wanted stronger action than the other members were willing to recommend. The result of the veto has been no action at all. Unanimity is desirable, but it must leave room for compromise and conciliation of differing views.

—*The Chicago Sun*

THE VETO IS INEVITABLE

Suppose that the principle of veto were abandoned in the Security Council. Suppose, then, that a simple majority—let us say, the United States, Britain and China—were to decide that Russia's obduracy on a given German settlement plan was a threat to world peace, and voted to put the plan to Russia on an "or else" basis. Suppose that Russia considered the plan intolerable, but lacked the "power" to veto it. She could, nevertheless, veto it by withdrawing from the United Nations. Such an action virtually would guarantee the eventuality of another war.

This is an extreme instance, devised merely to illustrate one point: that the veto power exists and will continue to exist in the inalienable right of any power to withdraw from the United Nations. It therefore seems futile to talk about eliminating the veto until the United Nations itself has grown so strong that it can compel any great nation, by threat of superior force, to abide by a majority decision. The veto is the safety valve permitting the escape of those excessive pressures which might easily cause the explosion of the whole United Nations machinery for maintaining the peace.

At present, to look at the situation with blunt realism, the fate of the United Nations and world peace rests with three nations: Russia, Britain and the United States. Any one of these is strong enough to overthrow the whole structure and plunge the world into a war of extinction. That power itself is an absolute veto power, written or otherwise. The latent possibility of the use of that power is the reason that all major Security Council decisions not merely should, but must, be unanimous

Senator Connally put it this way:

"Can you imagine what would happen if four of the smaller states and three of the great powers decided to use force against a state—perhaps against a great power—over the determined opposition of two permanent members of the Council? That would mean war—not the preservation of peace."

The fact is—and we must face this, too—that the veto now serves as a pit into which the great nations, locked over some

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seemingly insoluble dispute, must roll and be brought up short of the precipice of complete dissolution. It may be serving in that capacity now. Who is to say that, without the refuge of Council veto, one of the great powers would not before now have calculated the gulf separating the two opposing ideologies too vast, and backed out of the whole affair?

It isn't necessary to like the veto to perceive its inevitability. It's possible to concede its exasperating unwieldiness; its undemocratic concentration of power; its fairness to the small nations left with no choice but to go along, for the moment, with a minority, and still hail it as better than no veto, if no veto means no United Nations.

The veto will continue to be a problem. The answer—the way around the impasse—appears to lie in the achievement of unanimity among the great powers on the principle of the sparing use of the veto, not in the fond and futile attempt to legislate the veto out of existence.

The drive toward unanimity is a drive toward the root of the problem—an attempt to rally and apply the intelligence to grasp the overall picture, and the will to drive through to its realization. When those things have been accomplished, the veto will have been abandoned by common consent.

"It takes more," said Senator Connally in his recent statement of support for the veto, "than machinery to bring world peace. In my opinion, the machinery that we have is in the main adequate. But if the raw material that goes into the machine is bitterness and friction among the member states we cannot expect harmony and unity to result."

—*The San Francisco Chronicle*

• Note for the C.I.O.: "Gambling is the biggest business in America today—bigger than steel, the movies or the auto industry"—Michael MacDougall, leading gambling detective.

• "At last, my angel", the happy groom said, after he had settled with the minister, "we are really and truly one".

"Theoretically, yes," his modern bride replied, "but from a practical standpoint it will be advisable to order dinner for two".

• Young George was asked by his teacher to name the Middle Ages.

"Well", George replied, "They used to be 35 to 50; now, they're 50 to 75."

—*Good Business*

• The man of few words doesn't have to take so many of them back.

—*Specialty Salesman*

• A woman went into a New York shop. To the salesgirl, she said: "I come from Boston, I'm a Unitarian, and I wear drawers. Now you know the kind of hat I want."

—*Shining Lines*

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COUNTRY COMMENT

"BUGS BE HERE TOO"

READERS of Country Comment may have found the author too insistent in his praise of country life. He may have given the impression that it is like living in the Garden of Eden before the Fall of Man. Actually, it is sometimes more like Egypt during the Ten Plagues.

Take the gypsy caterpillars—hairy, crawling creatures about two inches long at maturity, vividly colored with yellow stripes and red and blue knobs. (The colors are best appreciated in one caterpillar at a time.)

One summer morning I woke—it was almost as sudden as that—and found that the gypsy caterpillars had arrived by the millions. They had never come before. I was not prepared for them. So I had to let them come. Day after day, month after month, I watched them grow longer and fatter on the leaves of oak, apple, birch and pine. I heard their droppings on the leaves like a fine rain, until on some trees there were no leaves left. By that time, the caterpillars were ready to go into cocoons. When the moths emerged, the females laid their eggs in clusters—little woolly buff-colored patches—attached to the bark of trees.

At this point, the town gave me several gallons of creosote, a brush to fix to a long pole and Godspeed. All autumn my outdoor recreation was painting egg-clusters. In the spring, I went on with the game, a simple version of hide-and-seek in theory, but in practice not so simple. Obviously it was impossible to win. One could neither find them all nor reach them all if found. May first was the deadline, the hatching date.

I needed help, and I needed perspective. Just then the Gypsy Moth Man arrived, a little oldish fellow who spent the warm half of the year farming and the cold half of the year "buggin'" for the town. His pole was longer than mine; so was his experience. Very deliberately he went about his work. My hovering anxiety must have annoyed him. Finally he leaned his pole against a tree and faced me. He kept one eye tight shut as he talked, though he seemed to see plenty out of the other.

"Everybody worryin', worryin'," he cried in disgust. Then with a sweeping gesture toward the trees: "We be gone—trees be here just the same. Bugs be here just the same, too."

Here was a philosophy of nature in a nutshell, pertinent to any plague whether gypsy caterpillar, Japanese beetle, Dutch elm disease or late tomato blight. Fight nature when you have to, but don't worry too much about the outcome. In the long run, you neither win nor lose. And the people who get along best with nature are those who keep one eye wide open and the other eye shut.

—ROBERT FRANCIS

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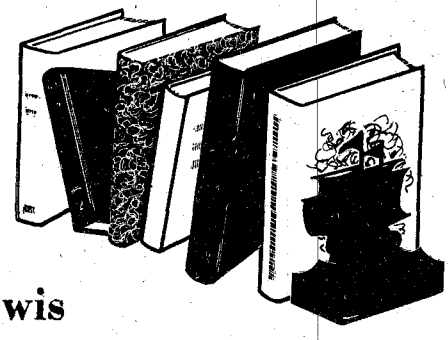
BOOKS
In Brief



By Jasper R. Lewis

SURVEY OF THE SOUTH

ELLIS GIBBS ARNALL, Governor of Georgia, has turned his hand to authorship, and he makes a fairly creditable job of it in *The Shore Dimly Seen,* (Lippincott, $3.00). At times he repeats himself, and sometimes his views are partisan, but on the whole he writes with sincerity and bluntness. In large part, the best in the book, he reveals some of the trouble, economic and social, of Georgia's citizens. Arnall gives a bit of autobiography to show that he would be qualified to discuss these things: his forebears were early Georgians.

One of his pet dislikes seems to be fascism, and, in the centralization of industry, with its resulting centralized population making for race tension, he sees the threat of that scourge in America. Another index of fascism is a system of control over our economy by management in behalf of absentee owners or "investors." Great corporate industries — monopolies — are another sign. The substitution of administrative law for constitutional law, and the supplanting of weak or indifferent state governments by federal powers are two factors indicating this threat. Most dangerous of all, he sees the development of two psychological trends: one, the idea of political impotence of the citizen; two, the search for a scapegoat.

There is nothing strange in Arnall's opinion that the key to American prosperity is the increase of the per capita income of southern and western farmers and workers. The alternative is "industrialized Okies" —war work orphans caught in the morass of reconversion. His solution is locating factories in the South and West, and revising freight rates on an equitable basis.

Admiring free enterprise, he objects to the "managerial bureaucracy" running most of America's big business. Yet he distrusts even more supervision of business by government as it tends to monopoly. The trusts must be dissolved, and the ability of powerful interests to bury new and desirable patents should be checked. Arnall approves of unionization of the South, because it would mean an end of wage differentials, the bar to the economic rise of Southern workers.

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It is unfortunate that when Arnall gets down to politics, particularly on the national level, he is not as persuasive as he is on economics. Having been a fair-haired boy with the New Deal, his conviction that only government can select and maintain an efficient staff for long time planning is typical of that group, but disputable. He disapproves of "career diplomats" in policy-making positions in foreign affairs, preferring that they be chosen from "among the policy-makers of the political party currently in power."

The weakest part of the book is the last chapter, not because of its salute to the late president, but because of its claims for the utter superiority of the Democratic party over the Republican. He is so enthusiastic on this score that even a Democrat of lifelong standing would blush in recollection that often, quite often, the country got along under Republican administrations. Arnall thinks "it might even be profitable (for the Democrats) to trust such a party (the Republican) with the conduct of affairs for brief intervals while the liberty party group (the Democrats) recovered its breath." It may be that he had a vision.

WORLD AFFAIRS

Curzio Malaparte, whether former fascist or not, knew a great deal of what was going on in Italy and Germany, and had close ties to important people in both camps. In *Kaputt,* (Dutton, $3.75), his reminiscences of the years between 1941 and 1945 are filled with incidents, some bitter and many savage. He tells about phases of the war that did not appear in print earlier, sadistic, brutal occurrences almost without precedent. His explanation of the title, *Kaput,* is that it derives from the Semitic *kapporoth,* meaning victim. "It is the German people's doom to turn into a kapporoth, into a victim, to go kaputt!"

What was it like to be a Japanese-American—a Nisei—and fight in the American forces against the Axis? Ralph Martin, war correspondent, tells the story of Ben Kuroki in *Boy from Nebraska,* (Harper's, $2.50), with sympathy and understanding. He relates instances of courage in the face of danger, in which Kuroki proved himself. An introduction by Bill Mauldin pays tribute to the Japanese-American and all the other minorities who fought for freedom.

Drew Middleton gives some facts about events in the war years that he was unable to write in his day by day cables during the conflict, in *Our Share of Night,* (Viking, $3.75). There is action in it, at the front and behind it, and he gives his opinions of some of the top figures in the united military forces. For good measure he relates minor incidents that convey an excellent picture of wartime existence.

The Strength We Need, by George Fielding Eliot, (Viking, $3.00), gives the major's military program for America's safety in the interim before peace treaties are signed. He analyzes the types of defense organizations and material required. He is firm in his demand for adequate strength for the purpose.

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BIOGRAPHY

Little Troll, The Reminiscences of Karin Michaelis, (Creative Age, $3.00), is an autobiography by Karin Michaelis in collaboration with Lenore Sorsby. It is a remarkable book. The Danish author tells of her emotional life with the same cool frankness that she relates her trials and successes in her writing, and, since the book describes a period of famous names, it is of tremendous interest from a literary standpoint. Free of inhibitions, she tells a story of Danish and Norwegian life and letters—and people—that is as delicately worded as it is candidly presented.

The execution of Louis XVI of France is the climax of *The Abbe Edgeworth,* by M. V. Woodgate, (Longmans, Green, $2.50), a biographical sketch of the Irish vicar who became confessor to the king's sister. Miss Woodgate is interested chiefly in the Abbe, and tells of his conversion to Catholicism, his devotion to the ill-fated king, and his later escape from the Commune's power to safety.

The Roosevelt I Knew, by Frances Perkins, (Viking, $3.75), is a surprise in its candor and acknowledgement of F.D.R.'s faults and foibles. Admittedly one-sided, as it must be because of her fidelity to the late president, the book is admirably frank and matter-of-fact about some of the politics of the insiders in the New Deal. Madam Perkins disclaims its intent as biographical, but it contains much valuable information about F.D.R.'s personality, and is extremely interesting reading for his admirers and haters alike.

The life of the founder of the religious order, Sacred Heart of Mary, is told in narrative form in *Gailhac of Beziers,* by Helene Magaret, (Longmans, Green, $3.50). It is a warm and almost passionate tribute to the work of the priest among the poor and sinners of his day.

Lovers of the music world will like *Two Worlds of Music,* by Berta Geissmar, (Creative Age, $3.00). In it, the author, whose experiences include being secretary to Wilhelm Furtwängler, manager of the Berlin Philharmonic, and later to Sir Thomas Beecham, pictures the music world world in pre-Hitler Germany and during his regime. Some of her pages report on London as well, but the Continental period is particularly interesting, reflecting also the war background.

FICTION

Jules Romains completes his gigantic Men of Good Will series with this fourteenth volume, *The Seventh of October,* (Knopf, $3.00). It is timed in 1933, and rounds out the picture of France in its retreat under the pressure of Hitlerism. It is not intended for light reading; its characters and plot are designed as a means of expressing the social and political changes in the French people. To that purpose, it sacrifices popular interest for study and evaluation of the times. There is a cumulative index, which requires 96 pages, of all the characters in the entire series.

A novel typically French in its plot and characters makes good reading and offers some moralizing as well.

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Blind Alley, by Georges Simenon, (Reynal & Hitchcock, $2.50), is relentless in its characterization and its insistence on evil paying its price. You might call it psychological, but it is too simply told to need classification on the sterner level.

Life in London during the war, with Hyde Park orators, the blitz and upset emotions, forms the background for *The Listening World,* by Reginald Moore, (Creative Age, $2.50). It is a brief novel, trying to explain the causes behind the reactions of men and women under wartime stress.

Jan Westcott has produced a clean and excellent historical novel in *The Border Lord,* (Crown, $3.00), the Lord being Francis Hepburn, Lord Bothwell. The place is Scotland in the reign of James Stuart, with its reflections of Queen Elizabeth's influence. There is action in every chapter, and the late Douglas Fairbanks, Sr., would have loved to fill the role of the suave and swashbuckling hero.

While *Barabbas,* by Emery Bekessy, (Prentice-Hall, $2.75), has for its central figure the robber and rebel (against Rome) of Biblical days, it is the story of Jesus, his trial by the rabbis and his crucifixion. The opposite characters of Barabbas, the man of violence, and Jesus, the apostle of peace, are built up to a dramatic climax. The other principal figures of the times appear, the whole making an intense story.

Sholem Asch has written another novel of his own people, *East River,* (Putnam, $3.00). The scene is East 48th Street in New York, 40 years ago, and the story relates the vicissitudes and fortunes of a typical Jewish immigrant family and its second generation. There is the intermarriage of a son with an Irish girl, the whole blended into a bittersweet melting pot novel that will be relished by the author's many devotees.

Temptation, by John Pen, (Creative Age, $3.00), is a translation from the Hungarian and concerns a peasant lad who grew up amidst the worst kinds of temptation in old Budapest. It is either realistic or lurid, according to your choice. It is powerful medicine, and, like powerful potions, may have a nauseating effect. Jokai, if I remember, did not find it necessary to label each spade.

A historical novel of the times of Benedict Arnold and Andrew Jackson, with the central figure a loyal Indian, *Holdfast Gaines,* by Odell and William Shepard, (Macmillan, $3.00), has the merit of adventure and action. It has over 600 pages of lively escape fiction for lovers of pioneer days in Colonial America.

MISCELLANEOUS

The stark realism of the French painter, Toulouse Lautrec, is described and illustrated by numerous photographs of the artist's work in *Toulouse Lautrec,* by Jacques Lassaigne, (Hyperion Press, Paris, distributed by Crown, $6.50). A number of the paintings are in color; some are not pretty, but represent the people Lautrec knew best in the Paris *demi-monde.*

I Hate Thursday, by Thomas Hornsby Ferril, (Harper's, $2.50), consists of some of the short pieces

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he wrote for *Harper's Magazine* and other papers by way of comment on everything from sports to politics. They have something of shrewd Yankee appraisal of life and old fashioned American humor.

John Roy Carlson, whose *Under Cover* proved top-flight, continues the report of his investigations in *The Plotters,* (Dutton, $3.50). In it, as before, he gives names and places, exposing the propaganda of individuals and groups. He makes it fascinating reading.

For your lighter moments, the season offers a number of volumes in which the artists' handiwork contributes most of the toil—and the fun. There's *The Horse of Another Color,* story by Cory Ford and drawings by John Falter, (Holt, $2.50). The human who lost all but his last hope on the ponies finally wins money, horses and track, and then the horses take over. Then there's *I Meet Such People!* edited by Gurney Williams, (Farrar, Strauss, $2.50). A whole flock of cartoons from *Collier's,* including one of my favorites, the lovable Butch. Old timers who followed the adventures of the fantastic cat created by the late George Herriman will relish the antics of *Krazy Kat,* (Holt, $3.75), with a tribute by E. E. Cummings. Lawrence Lariar edits the *Best Cartoons of the Year 1946,* (Crown, $2.00), which has selections from the most popular weeklies. The one instance in which the text furnishes hilarity and the illustrations, the accompaniment is *There's a Fly in This Room!* by Ralf Kirchner, illustrations by Gluyas Williams, (Rinehart, $2.00). It's a gay little book.

• Inverse proportion problem: we reportedly spend one hundred million dollars a year for funeral flowers and a scant five million for medical research.

• Love: a condition of mind at a time when the mind is out of condition.

—*Western Mail (Wales)*

• Ernest Bevin: "There is one kind of war that must stop if we are to get peace—that is the war of nerves that has left some unfortunate countries in a state of disturbance".

(The fortunate are simply hysterical.)

• A ham actress was belittling the late Marie Dressler's comedy. "What dignity is there to making people laugh?" she asked. "I make them cry."

"Any onion can do that," Miss Dressler retorted. "Show me a vegetable that can make people laugh."

—*Des Moines Register*

• Little Johnny wasn't very clean. One day he was sent home from school with the following note:

"Please see that Johnny is clean before he comes to school, he positively smells."

The mother sent back a note to the teacher which read: "Johnny is no geranium, he goes to school to be learned, not to be smelled."

—*Cappers Weekly*

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UNGATHERED FRUIT

This strict and stripped and all but stricken tree
That bears no fruit in this too arid place,
Lifts the spare line and angle, and we see,
In nakedness, the hard and final grace;
This, everywhere and always and at last,
Though much-obscured, bears up the summer bough,
The fruit and leaf, till leaf and fruit are passed—
This that is seasonless and always now.

Foreswear, a while, the meat and pit and rind
That weigh the branch with brief and succulent fare,
And the blurred green that leaves the quick eye blind—
And stare on this, instead, and stare and stare,
And see what fruit the essential shape will bear
For longer feeding of the hungry mind.

—DAVID MORTON

RADIO-ADVERTISER

Tell us these things are good—
Warm, well-fitting, spirit's food;
Sing us your glory in the honey of sound
Cultured, pleasant, richly round.
Profit is a lovely god
Who brings the rain
On rich and poor,
Who covers pain
With garb of glamor, wool of dreams.
Behold how easy owning seems,
How sweet and just is Bargain's fee
Whose argument is our necessity.

So falls the voice of Business, comforting,
Like oval pebble into pool of doubt,
And we are washed with blessings, ring on ring,—
Until, with booted stride and sudden shout
Comes morning's work, and want, and less than fair,
Shattering flaccid water into sunless air,
Putting the voice of all but Truth to rout.

—GEORGE ABBE

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Thoreau's Mask of Serenity

By Robert Francis

THOREAU, that strangely complex man who led the simple life, is still slow to yield his secrets to even the most painstaking biographers—a hundred years now since his Walden sojourn drew to a close. The most candid and self-revealing of men up to a point, he was the most uncommunicative beyond that point. We know to a penny how much his food cost him at Walden; but why he left the pond after two years and two months, we do not know. He seems to consider it an impertinence for us to ask.

The day for wholesale disparagement of Thoreau is long past. The place of no other American writer is more secure. His meaning and value to us become better and better known. We are no longer embarrassed that his nature observations were sometimes faulty and inept, nor are we troubled that the poet wrote his best poetry in prose.

But the clarification needs to go further. Thoreau's attractiveness is such that most of those who write about him do not wholly escape the mood of hero worship. Specifically, they represent him as a more harmoniously integrated person than I think the evidence bears out. That evidence points to a man of profound inner conflicts, of which he himself was imperfectly aware. These inner tensions made him more interesting as a man and as a writer than he otherwise would have been, but they also led to confusion in his thought. To point out that confusion is not to belittle Thoreau. No homage one can pay a great man is more sincere and serviceable than the homage of discrimination. To make clear a man's faults is to make his virtues potentially clearer.

Of one conflict Thoreau himself was cognizant. That was between the observer, the cataloguer, the scientist in him on one hand, and the poet, the nature-lover, the mystic on the other. Thoreau students such as Henry Seidel Canby in his *Thoreau* and Reginald Lansing Cook in his study, *The Nature Mysticism of Thoreau,* rightly have much to say on this subject. But underlying this conflict between two approaches to nature was a conflict as to the nature of nature, an ethical conflict.

When a man is passionately in love with a woman, we do not find fault with him for any extravagance of feeling or expression. If he acts as if his beloved were the only value in his life, we do not call him a fool. We say he is in love. And if he puts his emotion into sweeping statements; if he says in so many words that his beloved is everything to him, and life without her would be nothing, we do not try to refute him. More probably, we envy him. The measure of the value of any experience is always its value to an individual.

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But if our lover persistently maintains that his beloved is without fault, never shows the least jealousy, irritability, or cruelty, never grows careless or weary, never makes an error of judgment, never forgets a name or a telephone number, never sins in the eyes of God—if a man talks that way, we may still envy him but we question his intellectual honesty.

This is precisely Thoreau's position. He loved nature with an absorbing and inexhaustible ardor. For this we admire and perhaps envy him. But Thoreau went so far as to maintain that nature is without fault and beyond criticism. You may search his writings, including the 14 volumes of his published journals, without finding the least criticism of nature or the least question as to the ultimate rightness of the natural order. Instead he speaks again and again of the innocence, the purity and the serenity of nature.

Such an attitude would be less remarkable in many another writer. But Thoreau seemed designed by nature herself to ask searching and relentless questions of her, to be her Grand Inquisitor.

Consider his qualifications for such a task. Unlike so many of his fellow poets of the romantic era, Thoreau was a sharp and thorough observer. Indeed, this is what has always been best appreciated about him. Outdoors, his feet were on the ground—except when he was climbing a tree or boating on Walden. If his head was often among the clouds, they were clouds to observe and not clouds to hide his view. He saw—and heard—what was going on, the grim aspects of nature as well as the gracious. The incessant preying of one species on another, the cut-throat competition within a species for food and mates; the indifference of nature to the individual and her fabulous waste of individual lives to maintain her mystic "balance;" the hit-or-miss way in which one creature is allowed to live out its life while another from the same litter or swarm is snapped up as a bite of food; the satanic ingenuity whereby the young of one species are often fated to be the living cold-storage meat supply for the young of another species—all this Thoreau saw, and did not see. Very sharply he saw; very blandly he did not see.

But Thoreau was more than observer; he was also the candid reporter. He was committed to telling. His avowed aim was not only "to drive life into a corner and reduce it to its lowest terms," but also to publish his findings to the world. If those findings proved unwelcome to the world, so much the more motive he had for publishing them. He liked to go against the popular grain, indeed, against any grain. And when it came to his fellow men and their institutions, no man could be more critical and unsparing.

Furthermore, he was the exact opposite of a compartmentalist. He did not keep his poetry in one compartment, his nature studies in another and his religion in a third. He was concerned above all with the total view. His specialty was in tracing relationships. Yet he failed to see that those traits of society that made him angriest were essentially the same traits that in nature he con-

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doned or actually praised. In particular, the subjection of one human being to another, whether in slavery, or subtly by public opinion, or in the general processes of the state, was what put him in the whitest heat. But what is more "natural" than that one man should dominate another, and where can you find more interference with the individual, both by his fellows and by hostile species, than in the forest, the swamp, the sea, the air? If you say that there are two codes or rightness, that which governs the world of vegetables and lower animals, and that which *should* govern the world of human beings, you take a familiar and defensible stand. But it was not the stand Thoreau took. He wanted less, rather than more, demarcation between the two worlds. Nature was right not only in terms of herself but in terms of man's highest ethical standards; nature and God were one. If Thoreau needed any final sanction for his pantheism, he found it to his satisfaction in Hindu philosophy.

How untangle this puzzle? How account for the fact that so gifted, resolute an observer, reporter and interpreter became not the Grand Inquisitor of nature nor the impartial judge sifting evidence and weighing good against ill, but the grand affirmer, a man wholly on the defense? Few writers on Thoreau seem aware that this puzzle exists. George F. Whicher is an exception in his critical approach to Thoreau's philosophy of nature. In *Walden Revisited* he says of Thoreau: "Though he cherished independence of mind, he was not independent enough to scrutinize with appropriate skepticism the romantic doctrines of the benefits of solitude and the kindliness of nature."

Two situations help to explain the puzzle. One is the age in which Thoreau lived. The other is his inner search for a spiritual sanctuary.

Had Thoreau lived a century earlier or a quarter of a century later, his attitude toward nature could hardly have been quite so complacent. To the pioneer, outer nature, and to the Puritan, inner nature, were alike something to be subdued. Nineteenth century Concord was far enough from both Pioneer and Puritan for a new attitude toward nature to be possible. Romanticism supplied that attitude. Men of the late eighteenth and early nineteenth centuries rebelled against almost everything except natural scenery. Wild nature—the stormy ocean, the deep forest, the ragged Alps—became the refuge of sensitive souls. Nature was the one realm that never failed the defeated democrat, the disappointed lover or the religious heretic. Poetry was filled with nature worship; philosophy felt its warmth; and from Germany to England to New England that rarified something called "Transcendentalism" flowed as naturally as air itself. Thoreau grew up in the atmosphere. It was so much around him and within him that he was probably not distinctly enough aware of it to be critical. Like his fellow romanticists, he went to nature for solace, for inspiration, and for the finding of spiritual parables and parallels. Whatever was

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not uplifting in nature did not interest a romanticist and a transcendentalist.

The revolution in biology during the second half of the nineteenth century put an end to the indiscriminate praise of nature among thoughtful people. Searching for an adequate explanation of the facts of biological evolution, Darwin advanced a theory—natural selection—that emphasized the machine-like, the un-God-like aspects of nature. The struggle for existence and the survival of the fittest had always been obvious to anyone with eyes to see; but thanks to Darwin those processes took on a new emphasis. In consequence, men had to readjust their conceptions not only of God, but of nature as well.

Thoreau was nearing the end of his life when he read the *Origin of Species*. He was too committed to his own philosophy of nature and had too little time left him to make any fundamental readjustment, even had he appreciated all the implications of Darwin's teaching. If Thoreau had been born 20 years later and had gone to Walden Pond in the sixties instead of the forties, his whole attitude toward nature might have been critically inquiring rather than blandly affirmative.

Though Thoreau cannot be understood apart from his age, he cannot be explained entirely in terms of his age. He had great powers of inner resistance. He loved to be unpopular. If the romantic attitude had not been what he needed or thought he needed, he would have found another. Actually his need was very deep. Because most of his human relationships were keenly disappointing to him, he needed a refuge beyond the possibility of disappointment. The Unitarian God could not be that refuge for Thoreau. What else was left? Nature. Nature whom Thoreau already loved with ever-growing absorption. To love her wholly he needed her to be not only infinitely beautiful and alluring, but ethically spotless. And he found her to be exactly that.

Why was his need so urgent? The outline of his emotional frustrations is now familiar. If he loved Ellen Sewell, he lost her before he won her. If he loved Lidian Emerson, Emerson's wife, as Dr. Canby suggests, it was with so distant a delicacy as not to admit itself love. His brother John, whom he probably loved more deeply than any other human being, the one perfect companion he ever had, a kind of better self to him, was lost in death when he was 27 and Henry was 25. Thoreau's friendship with Emerson, which had meant so much to him in youth, cooled and congealed. Thoreau demanded of a friend perfect understanding and trust, the loftiest moral tone and warmth. Is it surprising that the demand was seldom met? Not only was Thoreau disappointed in his friends; they were sometimes disappointed in him. His lack of wordly ambition, which today we count among his virtues, troubled even the understanding Emerson. "Thoreau wants a little ambition in his mixture. Fault of this, instead of being the head of American engineers, he is captain of huckleberry party."

Thoreau philosophically admitted

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many a minor defeat in his life, but there was a doggedness about him that would not admit even the possibility of anything but full final victory. A muskrat that gnaws off a foot to escape from a trap is not more determined. Thoreau was more bent on success, *his* success, than was many a worldling whom he despised. And *his* success was bound up with what we regarded as the sublime success of nature.

In the Journals we can watch him struggling to harmonize many a discordant note . "Who shall describe the inexpressible tenderness and immortal life of the grim forest," he wrote of the Maine woods, "where Nature, though it be midwinter, is ever in her spring, where the moss-grown and decaying trees are not old, but seem to enjoy perpetual youth; and blissful, innocent Nature, like a serene infant, is too happy to make a noise, except by a few tinkling, lisping birds and trickling rills?" But when his companion was lost overnight in the forest, nature's serenity seemed less to the point. And when his Indian guide killed and skinned a moose, Thoreau blanched at this most "natural" act. "What a tragical business it was,—to see that still warm and palpitating body pierced with a knife, to see the warm milk stream from the rent udder, and the ghastly naked red carcass appearing from within its seemly robe, which was made to hide it."

Thoreau sometimes took the opposite tack: admitted nature was indifferent and inhumane and counselled man to be likewise. "I love to see that Nature is so rife with life that myriads can be afforded to be sacrificed and suffered to prey on one another; that tender organizations can be so serenely squashed out of existence like pulp,—tadpoles which herons gobble up, and tortoises and toads run over in the road; and that sometimes it has rained flesh and blood! . . . Compassion is a very untenable ground." Was Thoreau as hard-hearted as this? Remember that he was sometimes more bent on concealing his feelings even from himself than on revealing them, though now and then the truth came out in spite of himself. "Some thoughtless and cruel sportsman has killed 22 young partridges not much bigger than robins, against the laws of Massachusetts and humanity." "When the thermometer is down to 20 in the morning, as last month, I think of the poor dogs who have no masters." A tender-hearted man struggling to reconcile himself to a world that he passionately needed to believe was also tender-hearted. A man too self-willed to be wholly honest with himself.

But the confusion went deeper. "I wish my neighbors were wilder," he said, meaning he wished they were more like Therien, the French-Canadian wood-chopper, and Joe Polis, the Indian guide. He also said, "Nature is hard to overcome, but she must be overcome." He wanted men in nature, but he did not altogether want nature in men. His puritan tastes and scruples collided with the tastes of animals and unregenerate humanity. His failure was not to reconcile the two but to see and admit their irreconcilability.

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The preying of animal on animal he accepted unquestioningly. The preying of man on man he opposed passionately. The preying of man on animal he kept changing his mind about. You could almost write Thoreau's spiritual biography in terms of his shifting answers to the question: to fish or not to fish? Free sexual expression among animals he also took for granted. Free sexual expression among human beings shocked him. He was wholly on the side of chastity, though chastity is scarcely a lesson taught by nature, and the most purely "natural" man is generally far from "pure." Examining the sound, white teeth of a hog jaw that he came across, Thoreau had to admit that "this animal succeeded by other means than temperance and purity."

"I love the wild not less than the good," Thoreau wrote in the "Higher Laws" chapter of *Walden*. If he had stopped there, we could not quarrel with him. But he tried in a tortuous way to reconcile the two, and came out with this sort of logic: "the good is distinct from the wild and sometimes opposed to the wild, but the wild is always good."

As a seer (in both senses of the word), as an Old Testament prophet, as a poet in prose, an orator with the written word, and most of all as a man who lived what he wrote, who took a stand against the state and for the individual that has become classic—Thoreau remains. But as a thinker, a man committed to careful definition, logical progression and intellectual consistency, Thoreau is far more unreliable than he is as a natural scientist.

Even his own words, written in self-revealing moods, say as much. "I do not love to entertain doubts and questions." "I do not think much of the actual. It is something which we have long since done with." "The truest account of heaven is the fairest and I will accept none which disappoints expectation." "I fear only lest my expressions may not be extravagant enough." "The brave man never heareth the din of war; he is trustful and unsuspecting, so observant of the least trait of good or beautiful that, if you turn toward him the dark side of anything, he will still see only the bright."

• We hear that in Washington an old slogan has been reversed: "Now is the time for all good parties to come to the aid of man."

—*Pathfinder*

• One of the complicating elements of this complex age in which we live is the fact that everybody loves sewer systems, but nobody likes to dig the ditches.

—*Daily Oklahoman*

• Hearing that her elderly Cape Cod neighbor had become ill from eating clam chowder, Mrs. Gibson went to call on her. She found the old lady seated at the table, a napkin under her chin, eating clam chowder. "Why," she exclaimed, "I thought it was clam chowder that made you sick!"

The old lady looked up at her fiercely: "It did! But I don't aim to have my stomach dictating to me what I can eat!"

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The Theatre Arts

By John Gassner

AS THE FIRST half of the 1946-1947 season draws to a close, it is evident that revivals, even in repertory, must remain secondary to the unfolding of new plays. The classics, by and large, stimulate us less than might have been expected. The mote is in our own eye to the extent to which the American public lacks both historical perspective and respect for tradition. It doesn't care a copper that generations found value in such pieces as *The Duchess of Malfi, Henry VIII, What Every Woman Knows, John Gabriel Borkman* and *The Playboy of the Western World.* The public requires that these plays live for it as though they were brand new contributions. The beam, however, is in the producer's eye, since most of the revivals we have seen thus far have been given an indifferent or uneven production.

The most ambitious effort has been represented by the American Repertory Theatre which has for its leaders Margaret Webster, Eva Le Gallienne and Cheryl Crawford. This high-minded organization has given us an indifferent *Henry VIII,* a bad *What Every Woman Knows* and a generally commendable but hardly popular *John Gabriel Borkman.* In limiting itself to the resources of its nascent repertory company, it has miscast actors or relied upon actors who, regardless of their merits, could not deliver the kind of performance that makes dead bones live again.

Henry VIII was fortunately subjected to a thorough revision by Margaret Webster, which is no sacrilege since Shakespeare had no more than a finger in the composition of this Jacobean chronicle. As director, Miss Webster also wisely toned down its faded pageantry, and contributed a very lively piece of acting as a Lady in Waiting whose earthy sense of humor recalls Juliet's Nurse. Victor Jory was the very image of the incalculable and polygamous, though overly bouncing, Henry, and Miss Le Gallienne had some good moments as his first and greatly abused wife, Katherine. Walter Hampden played the famous old part of Cardinal Wolsey with

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authority. Never-the-less, only Philip Bourneuf as the Narrator and Richard Waring as the hapless Duke of Buckingham struck fire from their parts. In the main, *Henry VIII* remained a museum piece, never offensively bad but never transcending the limitations of a history lesson. The public could have done considerably worse than patronize it, and, for students, attendance was virtually compulsory. But this was not quite living theatre.

James M. Barrie's *What Every Woman Knows* has its delights, especially in the first act, although the plot creaks at the joints a little. Barrie's familiar compound of shrewdness and sentimentality, vinegar and oil, is much in evidence. The very least that can be said for this play is that it can make diverting theatre and that the American Repertory was not doing us a disservice in sandwiching it in between two sombre dramas. Unfortunately, however, the production was, for the most part, stock or, rather, stock-company theatre. The interestingly drawn Maggie who does what every wife of a successful man presumably does when she plays God behind the scenes was ruined by a piece of woeful miscasting. Victor Jory, an able actor in his own right, made a wooden husband, and Eva LeGallienne, as the French Countess who discovers that the retiring wife is the source of the husband's success, performed in *opera bouffe* style, redeeming the role only in the second half of the comedy.

More success attended the revival of Ibsen's *John Gabriel Borkman,* partly because it is the best of the three plays, and partly because Miss Webster and Miss LeGallienne gave expert performances. Ernest Truex played the secondary part of a frustrated but warm-hearted clerk with true inspiration. If Borkman had not been turned into a stock figure by Victor Jory, the production would have been memorable instead of being merely good. In reviving this play, the Repertory Company justified its existence, and more productions on this level could perpetuate that existence. Although Ibsen was no longer a master-builder when he constructed *John Garbriel Borkman,* he created tense drama. What is more, it is as meaningful today as it ever was. It represents the tragedy of a power-inebriated tycoon who is a poet in all his dealings with industry but is killed by the cold in his heart. It is noteworthy how much anguish Ibsen could squeeze out of the failure of man in a materialistic age. The Norwegian master knew how to transcend realism without seeming to violate it; how to fuse fact and symbol, man and nature, private drama and poetic atmosphere.

Theatre Incorporated also performed a service in reviving John Millington Synge's masterpiece, *The Playboy of the Western World,* with some revealing moments in Burgess Meredith's performance. But it is curious how well-intentioned and talented theatre folk managed almost to commit mayhem on a great artist's brain-child. The fault was both in the direction and in Mr. Meredith's performance. The production was kept uniformly slow, apparently in order to enable

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audiences to understand and relish Synge's flavorsome peasant dialect. If the tempo was speeded up toward the end, it was done precisely when the director might have taken time to underscore the villagers' *volte-face* when the "playboy" Chris knocks his father down in their presence. The theme of the play is "What Price Hero-Worship?" since Chris is a hero so long as he killed his father in a distant county and not in the villager's own backyard. In a sense, the play is also a rueful account of the development of a boy who must realize at the end that strength lies in oneself and not in the ill-founded admiration of others. The meaning of the play was largely lost in a literal evocation of folk comedy, which in turn failed to go over because of a mixture of acting styles ranging from the genuine Dublin article (in Edith Dunne's and J. M. Kerrigan's performances) to Shubert musical comedy (in the costuming and playing of the village maidens). Burgess Meredith was excellent in the first act when he conveyed the weariness and longing of the runaway Chris, but failed to convey the fierceness of his role as Chris basks in admiration and gathers strength at the end. Mr. Meredith relied too much on a studied lyricism and was slowed up by the necessity of speaking a dialect which mastered him instead of being mastered by him. The revival was languid instead of exuberant as folk comedy; some of it actually seemed slow-motion humor. It failed to capture the disenchantment at the core of most of Synge's writing.

It could have been argued early in November that it was surely ungracious to cavil at the revivals when new plays were so few and so wretched. Yet, by the end of the month, we had enough data to conclude that the real life in the American theatre was still to be found in contemporary work. We could draw this conclusion equally from the regrettable evidence that we are still too inexperienced as producers and public to cope with the classics and from the heartening appearance of Eugene O'Neill's *The Iceman Cometh,* George Kelly's *The Fatal Weakness,* Maxwell Anderson's *Joan of Lorraine* and Lillian Hellman's *Another Part of the Forest.* Even when the merit of any of these plays was open to question, it was apparent that the cast and the directors were on their mettle to a far greater degree than in the case of the revivals.

If *The Iceman Cometh* suffered from undue length, it held our attention because O'Neill's craftsmanship was again suspensive. His sense of atmosphere was as sure as in his early work. His insight into character continued to strike sparks, and his seriousness was once more contagious. It might be argued that Gorky had said as much in fewer words and that O'Neill's philosophy was far from original. But his idea that men hug the illusions which mercifully screen them from self-knowledge had dramatic persistency. The painful fact, that they let illusions keep them bogged down in their private morasses, possessed intensity. In the person of the wife-murderer and would-be awakener or savior, O'Neill created a charac-

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ter whose complexity is found only in the greater novels of modernity. In the gallery of subordinate characters not one failed to reveal facets of observable humanity. And over the play hung the fascination of elusive symbolism which transfigured seedy reality into poetry.

As to the argument that O'Neill was pessimistic, the least we can say is that a man is entitled to his pessimism so long as he does not violently distort character, situation and observable human behavior. There was also considerable integrity in the resolution of this sultry play. Although it would have been easy to dissolve the story in mysticism or conventional religiosity, and although his last produced play, *Days Without End*, made us believe that he would henceforth accommodate himself to his childhood creed, O'Neill dispensed with ready-made consolations. He made us taste the bitter grape of disillusionment without popping candy into our mouths. In all, he again proved himself the only major dramatist in the American Theatre. If *The Iceman Cometh* falls measurably short of being a great play for reasons which I intend to examine in a later article, it has stature. Even when it bores, it bores with a difference.

The Theatre Guild production had everything that most recent revivals have not had—impeccable casting (among the players, Dudley Digges was his usual superb self and James Barton was an utterly authentic salesman hero); sensitive direction (by the best active director of our stage, Eddie Dowling); and unity of style, which was the combined result of the actor's performances, Dowling's direction and Robert Edmond Jones' settings. Even the monotonous stylization evident in repeatedly freezing all characters, other than those engaged in a conversation, seemed right in terms of the premise of the play—that is, in the fact that the characters are half dead. The long, unilateral, "Last Supper" quality of the bar-room set was in itself a mirroring of O'Neill's implications, as if to say that once again man's would-be savior was departing from life, albeit this time the promise of redemption was a mockery and a delusion. Here was theatre that spoke to the spectator's soul instead of babbling into his ear. For the spectator could complain of many things. He could denounce the ideology with youthful impatience or he could fret in his seat from sheer middle-aged exhaustion, but he could not say that either the play or the production were making anything but the highest demands upon him. This is a sign of greatness in art that even exquisite and gratifying minor works never possess. The contemporary theatre does not often reveal anything comparable; nor does the modern novel, if truth be told. There is also a long literary record from *Paradise Lost* to Proust's opus and Mann's Joseph novels to indicate that such writing is as a rule greatly flawed or greatly tiring.

Heroic striving also characterized Lillian Hellman's account of the Hubbard family's (*the Little Foxes'*) past in *Another Part of the Forest*. Here they are again robbing one another, as well as their neighbors,

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and demonstrating man's damnation in non-theological terms. Here, in the story of how the elder Hubbard made a fortune out of the Civil War and how the vipers he reared dethroned him, is another episode in Miss Hellman's retelling of Gustavus Myer's *History of Great American Fortunes*. Here, too, is something that towers above the ordinary dramatic scene because the playwright pursues her aims relentlessly and because the cast follows suit in a common endeavor. Miss Hellman was her own director, and made every line and movement speak out her intention. Every role from Percy Waram's elderly Marcus Hubbard to Patricia Neal's Regina is clearly etched, and, what is the miracle in all this, each character is more than an etching. For purposes of Miss Hellman's satire, an etching would be sufficient. But Miss Hellman proves again that she is a portrait-artist, and there is not a character in the text or an actor in the cast who does not live as a completely rounded individual. This has to be seen in order to be believed, but one may cite the example of Marcus Hubbard in Percy Waram's impersonation. The old fellow deprived the Confederates of salt and sold it to the army of the North. His final act of treachery caused the annihilation of a Southern detachment. He should be, he is, a villain. But he is endowed with taste and intelligence; he educated himself until he stands far above the Southern aristocracy. He holds concerts in his mansion, and even composes music himself. He may be sordid but he is a seeker after beauty. He is illusionless yet mannerly, grim yet endowed with a sense of humor which ranges from a rueful patience with folly to a snarl. He has an almost incestuous love for his high-spirited daughter and is pathetic rather than evil in this. As we watch him being robbed and abandoned by his family, we are almost compelled to sympathize with him.

Another Part of the Forest also commands interest as a form of drama rarely experienced and insufficiently comprehended in our theatre. There are bound to be many playgoers who will not know what to make of it. Although their sympathies are ranged against the major characters, they cannot dismiss the Hubbards as either caricatures or puppets of the author's thesis. The characters are morally appalling and yet they are engrossing. The theme of thieves stealing from thieves invites hilarity, but *Another Part of the Forest* does not incline us to laughter. The play is a joyless comedy. For its counterpart, we shall have to go back to the Elizabethans, to Shakespeare's so-called dark comedies like *Measure for Measure* or *The Winter's Tale* and Ben Jonson's *Volpone*. It is, to borrow from Matthew Arnold, a criticism of life, and it demands intellectual maturity from its audiences.

Comedy of this type is more admirable than lovable; perhaps also a little repellant because it lacks generosity of spirit. It seems to come from Satan who sees only the contemptible side of humanity. And perhaps because it is anti-humanistic and befouls the spirit, it will never occupy the highest reaches of crea-

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tiveness. It will never rise up to the empyrean. This is possibly the ultimate criticism of *Another Part of the Forest,* the fundamental definition of its limitations. These, however, could have been less narrowing if Miss Hellman could have achieved her third-act resolution without the mechanical aid of incriminating papers and testimonies; if she had allowed the resolution to arise solely from the character of the Hubbards. She succumbs to an adventitious and contrived plot, which is a mistake in every instance and is even more regrettable in *Another Part of the Forest,* since it suggests that Miss Hellman is bent upon hanging her Hubbards instead of letting them hang themselves.

Concerning *Joan of Lorraine,* little more need be said than that an excellent production, with Ingrid Bergman turning in a superb piece of characterization, makes an indifferent play look like a masterpiece. Anderson's play is disjointed and repetitiously argumentative. It solemnly raises mountains of specious obstacles to a surprisingly easy resolution. It tries to build a great debate about faith without actually demonstrating anything. What it does say clearly enough is that idealists may compromise in all things but those that concern the heart of their ideal. When they reach this barrier, they vault over it even at the cost of their lives. There is merit in this investigation, even if Anderson is not the writer who can carry it to a triumphant conclusion as Shaw managed to carry his argument in *Saint Joan.* Anderson lacks the necessary dialectic force, which is apparently less available to liberals than to Jesuits and Marxists or those trained by them. But Anderson does manage to come within sight of the goal. He approaches it interestingly by alternating vignettes from St. Joan's story with backstage scenes that concern the staging of this story by actors among whom the leading lady is trying to understand her Joan of Arc role. Anderson makes acceptable theatre out of this. By himself, as playwright, he might not have done so. The production, to which he must have contributed considerably, abets him. In this enterprise much credit also belongs to Lee Simonson whose set, costumes, and lighting recall the triumphs of American design during the twenties when Simonson, along with Robert Edmond Jones, created the art theatre in America.

George Kelly's *The Fatal Weakness* also deserves honor. It may not be all of a piece. On the one hand, it is a very clever comedy about a wife who is so romantic that she becomes engrossed in her husband's affair with another woman and even attends their wedding incognito after she has given him a divorce. This is observant writing, and it has some bearing on the chronic romanticism of American middle-class women, who are far less worldly-wise than their free manners and speech would indicate. On the other hand, *The Fatal Weakness* is a character study that is at odds with this theme, since the author gives his heroine another role, as the mother of an aggressively modern daughter, in which she is anything but foolish. The schism in the play weakens its comedy and causes confusion.

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An hour of glory

A Reporter's Roosevelt

By Jeff Brown

From his column in the Providence Evening Bulletin

SCARCELY a week goes by any more without at least one new book by somebody who knew Franklin D. Roosevelt. Cabinet secretaries, presidential relatives, secret service men, novelists, doctors—they've all had a fling at it.

I knew Roosevelt, too, even if he didn't know me from most of the other hundred-odd reporters who used to crowd into the White House press conferences on Tuesday afternoons and Friday mornings. So here goes.

The first thing to decide, on press conference days, was whether to try for a place in the front row—which involved early arrival, a long wait, and a lot of pushing and shoving when the door finally opened—or to be content with a spot in the rear, where it was sometimes difficult to hear and always impossible to see. There were several points to be considered in this choice. The President was fun to watch at a press conference, especially if he had a distinguished visitor. And if you had a question, it was generally easier to get it in from up front. On the other hand, if your question was controversial, there was considerable comfort in popping it from the rear ranks, with the heads and shoulders of intervening colleagues shielding you from the Roosevelt eye and tongue, both of which could be highly unsettling.

Generally I alternated between the front and the back. As it happened, however (and I can't honestly say now whether it was by conscious design or not), the only time I tangled with the President, I was safely stationed behind a wall of reportorial backs.

This exchange earned me a little anonymous immortality. It is still mentioned from time to time by newspapermen who like to rehearse the history of the New Deal; Arthur Krock had it in *The New York Times* only a week or two ago. It happened during one of the coal strikes. John L. Lewis was breathing defiance at the federal government, and from my rear-rank foxhole I asked the President what he proposed to do if Lewis persisted in his course. The rejoinder almost floored me.

"What would you do?" Roosevelt shot back.

I said the first thing that came into my head:

"I don't know, sir—I'm not President."

The room exploded into a roar of laughter, and several colleagues congratulated me afterward on what they considered a very witty riposte. This baffled me, and still does. Ac-

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tually, I think it was a pretty weak answer. After all, it's not every newspaperman who gets a chance to tell the President face to face how to handle a national crisis. I flubbed mine, and I'm not likely to get another.

Roosevelt nearly always put on a good show at his press conferences, but he was most interesting to watch when he was performing for a guest as well as for the reporters out front. The two conferences of this kind I remember most vividly were those the President conducted jointly with Churchill and with Mme. Chiang Kai-shek.

I sweated out a whole hour's wait to make the front row when the Prime Minister was at the White House. It was worth it. He sat at the President's right, looking almost like a cartoon of himself, and watched imperturbably while the newsmen jammed themselves into the big oval room. Then the photographers go to work, and the two great statesmen gawked and mugged, for all the world like a pair of stock company actresses trying to up-stage each other.

The conference opened with a graceful little speech by the President warning Churchill to beware the "wolves of the press" with their tricky and incisive questions. The very first query destroyed the whole build-up. A British correspondent straight out of P. G. Wodehouse, in a voice somewhere between a bleat and a whinney, asked:

"Eh, Mistah Prime Ministah, what may we tell the people of Australia—may we say you ah of good cheah?"

Mme. Chiang Kai-shek was one of the very few people I ever saw get the best of Roosevelt at a press conference. You may have heard the story—how the President declared that America was sending aid to China "just as fast as the good Lord will let us," and how Mme. Chiang replied softly in a voice brimming with acid sweetness:

"May I remind the President that the Lord helps those who help themselves."

Roosevelt's head snapped back, in the old, familiar gesture, and he joined in the general laughter. But his laugh had a distinctly metallic ring, and those of us up front could see the angry rush of blood into his face. He didn't like it one bit.

A couple of years after I left Washington, I got a visiting fireman's pass into one of President Truman's press conferences. The change was startling. It seemed a routine, colorless business, with obvious questions, trite replies, and no life or sparkle at all. The President's manner reminded me of a Y.M.C.A. secretary about to deliver a speech on the facts of life. The reporters, I noticed, frequently threw questions at him without using the traditional terms of respect —"sir" or "Mr. President." They never did that with Roosevelt.

• In the old days, "pay dirt" referred to gold-bearing soil, not to novels.

—Banking

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HIGHLIGHTIN

Perhaps the motto of the delegates in New York, London and Paris was "home by Christmas", for in the few weeks before December 25, four important international conferences finished their business and adjourned. Or perhaps they wanted to start the new year with a clean slate. But whatever reasons the various conferees may have had, much international business was accomplished.

THE GENERAL ASSEMBLY

Delegates and employees alike wearily welcomed the adjournment of the second part of the first session of the United Nations General Assembly. For seven weeks they had tackled the world's most difficult problems, proving to skeptics that the new world organization was not afraid to hear about any international controversy.

The statistics on the meetings are, indeed, impressive. The personnel showed that the member-nations regarded the proceedings as important. No less than two prime ministers, 18 foreign ministers and 13 ambassadors to the United States headed the various delegations. Between October 23 and December 17, 34 plenary sessions, 190 committee meetings and 159 subcommittee meetings were held to consider the 71 items on the agenda. Almost 20,000,000 words were spoken and recorded and interpreters translated all of them into French, English, Spanish, Chinese and Russian. The document section provided the delegates with 5,000 documents on proposals, actions and communications, using in all 1,248 tons of paper. And 400 cars carried the visitors to the various meetings.

What was accomplished by all of this? In answering this question, it is necessary point out that the power of the General Assembly is limited to recommendations without conclusive action. However as a sounding board for 54 nations, large and small, it can surely influence the action of the Security Council. Secondly, it should be remembered that great strides were taken over the accomplishments of the first part of the session, held in London from January 10 to February 16, 1946. There the delegates were confined to organizational matters—the selection of Trygve Lie as Secretary General, the election of the non-permanent members of the Security Council and the establishment of the Atomic Energy Commission. But in Flushing Meadows and in nearby Lake Success, the field was wide open.

Trusteeships: Agreements were approved for eight World War I mandates, providing for them administration by the Trusteeship Council. In an imperialistic tone the United States had warned the United Nations that if the trusteeship agreement on the former Japanese islands in the Pacific was not approved, the United States would continue *"de facto* control" of the areas. Another imperialistic note came from the Union of South Africa. That country wants to annex South West Africa, which it

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has administered as a mandate since 1921, and declared that she would continue to rule it as an integral part of the Union even if the Assembly failed to approve the annexation proposal. The proposal was rejected. An ominous omission from the list of trusteeships was Palestine, the only British mandate which was not turned over to the Trusteeship Council.

Site: The site committee made hurried trips to San Francisco, to Boston and to Philadelphia in a final effort to choose a permanent home. Just before the issue came to a vote, a wealthy American made a surprise offer, an offer too good to reject. John D. Rockefeller, Jr. agreed to purchase a six-block area along the East River in the heart of Manhattan for $8,500,000 and give it to the United Nations for a skyscraper development. The residents of West Chester County in New York can again breathe freely.

Disarmament: This problem was a thorny one since it included the delicate question of the control of atomic energy and the location of troops. "The time has come", declared the Soviet Union, ". . . to carry out a general restriction of armaments." Mr. Molotov urged all the members of the United Nations to report on their troops stationed in non-enemy countries, but Warren R. Austin, the chief American delegate, objected, and said that the report should include all troops "at home or abroad." After the Political and Security Committee passed a resolution along the lines of Mr. Austin's suggestion, Mr. Molotov suggested further that inspection committees, in the framework of the Security Council, be established for the disarmament measures. Anglo-America objected again. Such activities should not be subject to the Great Power veto. And again the West won out. In the final resolution on disarmament passed by the Assembly, "vetoless" inspection safeguards were to be established.

Other measures: India brought the issue of racial discrimination before the Social, Humanitarian and Cultural Committee by complaining that the Indians in South Africa were being mistreated. South Africa declared that was a domestic problem but was reprimanded, by resolution, for her violation of human rights as outlined in the United Nations Charter. . . . After proposals to break off diplomatic relations completely and to call on the Spanish people to overthrow Franco were defeated, a resolution was adopted asking members to withdraw the chiefs of their diplomatic missions from Spain. . . . The effort on the part of the small nations to limit the use of the veto by the Great Powers failed. Instead the Assembly passed a resolution calling upon the Big Five to use restraint in applying the veto. . . . The government of Iran called upon the Security Council to keep the Iranian-Russian dispute on the agenda and Greece complained to the Security Council that "outside influences" were fomenting the guerrilla warfare on her borders.

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THE BIG FOUR AGREE

While delegates from 54 nations met on Long Island, their big brothers, the Big Four, accomplished their mission in the Waldorf. On December 12, after a month of wrangled nerves, strained friendships and unbroken deadlocks, the Council of Foreign Ministers decided definitely upon the peace treaties with Italy, Finland, Rumania, Bulgaria and Hungary. The atmosphere of the negotiations had supposedly been cleared by a sudden desire of the Soviet Union "to yield all along the line." On February 10 the documents will be signed.

Notable among the provisions was the agreement for the Free Territory of Trieste. The strategic Adriatic city will be governed by a regime under Security Council supervision. The Russians had formerly held out for a local "advisory" council. The boundaries of the territory were also determined.

The Russians also gave in on the freedom of the Danube. They agreed to have the clause guaranteeing equality of rights in the trade of the Danube included in the treaties for Hungary, Rumania and Bulgaria. Previously they had declared that only the riparian states should share in the control of the Danube. A conference will be called six months from the time the Balkan treaties go into effect to work out a convention covering trade in the Danube countries. While the Russians made a concession on the navigation of the Danube, the United States resolved another tense situation by announcing that the river craft detained by the Americans some months ago were being returned.

The main territorial adjustments were: Dodecanese Islands from Italy to Greece; two-thirds of Venezia Giulia to Yugoslavia; Transylvania from Hungary to Rumania; Bessarabia and Bukovina from Rumania to the Soviet Union and southern Dobruja from Rumania to Bulgaria.

The defeated nations will pay out in reparations: $900,000,000 to the Soviet Union; $200,000,000 to Yugoslavia: $50,000,000 to Czechoslovakia; $150,000,000 to Greece and $25,000,000 to Ethiopia.

Thus the first conclusive step in re-establishing peace in Europe has been accomplished. On March 10, in Moscow, the foreign ministers will begin another round of discussions and treaty-drafting. Only this time the questions at stake will be more important—Germany and Austria.

WITHOUT RUSSIA

Two other international conferences were going on at the same time the General Assembly and the Big Four were meeting; namely, the conferences on world trade in London and U.N.E.S.C.O. in Paris.

Having in mind a program aimed at lowering world tariffs and establishing freer trade, Will L. Clayton, United States Under Secretary of State, proposed the conference on trade in September, 1946. The 18 members of the United Nations Economic and Security Council were invited: only the Soviet Union refused to come. On November 26, after five weeks of discussion, the American charter was accepted virtually unchanged.

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Contained in the agreement were these main principles: (1) multilateral and reciprocal tariff negotiations are endorsed; (2) subsidies and barter agreements are denounced; (3) agreements to restrict commodity exchanges are disapproved; (4) preferential agreements are disapproved as a long-term device. The International Trade Organization, also provided for in the charter, will be organized at the next meeting in Geneva in April, 1947.

In Paris, the United Nations Educational, Social and Cultural Organization met for the first time in November. Forty-four nations were represented. The Soviet Union was, again, not among those present. The over-all aim of the organization is to foster world understanding and tolerance through education. (The Russians fear, perhaps, that U.N.E.S.C.O. will disperse western propaganda.) Specifically the delegates convened at the Sorbonne to make plans to reduce illiteracy, revise textbooks and to promote the free flow of information. This conference also ended on November 26 and the delegates left Paris pleased with the results.

WITHOUT FRANCE AND RUSSIA

For over a year the United States and Great Britain have been urging the economic unification of Germany, as called for in the Potsdam Agreement, but the other two have opposed it: France, because the western border of Germany has not yet been definitely settled, and the Soviet Union, because the disposal of reparations has not been completed. Some time ago the United States and Great Britain announced their intention to merge their two zones and on December 2, 1946, Foreign Secretaries Ernest Bevin and

Alexander in *The Philadelphia Evening Bulletin*

"FOUND AT LAST"

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James F. Byrnes announced an agreement, providing for the economic integration of the two zones effective January 1, 1947. The products of both zones, as well as the costs of administration, will be pooled and shared equally. Holding a hand out to France and Russia, the accord states: "The two governments are ready at any time to enter into discussions with either of the other occupying powers with a view to the extension of these arrangements to their zones of occupation."

EGYPT FOR THE EGYPTIANS

For many months the British and the Egyptians have been negotiating a treaty of friendship, aimed primarily, from the Egyptian point of view, at the withdrawal of British troops. A draft treaty, drawn up in October in London, was approved by Ismail Sidky Pasha, Egyptian Premier. Approval, however, in the land of the Pharoahs was by no means universal. Although the full terms have not yet been published, the government's political opponents instigated violent demonstrations. Students in Cairo and Alexandria staged riots and battled police until, on November 27, Premier Sidky closed the schools and universities as super-nationalist breeding places.

Opposition centered around three points: (1) Complete evacuation of British troops was set for September 1, 1949; (2) Egypt was obligated to aid Britain in the event of war; (3) British recognition of Egypt's sole sovereignty over Sudan (now jointly ruled by Great Britain and Egypt) on condition that the two powers would continue to rule jointly until "the Sudanese were ready to decide their own future."

Premier Sidky received a vote of confidence from the Egyptian Chamber of Deputies, but only because the opposition had walked out during the vote. The vote, however, empowers the Premier to enter the final stages of negotiation.

BLUM RETURNS

Step by step, election by election, France is establishing the Fourth Republic. The process will be completed some time in January when a new President is elected. In the meantime, Leon Blum has accepted the President-premiership.

When the new National Assembly of the Fourth Republic convened on November 28, Georges Bidault, Premier-President of the provisional government, resigned. For two weeks France was without a responsible government. Then, by a non-partisan vote of 575 to 15, Leon Blum, 74-year-old Socialist leader and Premier of the Popular Front government in 1936, was named Premier. He will serve until the new President of France appoints a regular Premier.

For five days, Premier Blum tried to form a "National Union" government, which both the extreme Right and the Communists opposed. His coalition efforts having failed, he turned to his own party, the Socialists, who hold only one-sixth of the seats in the Assembly. On December 17, the Assembly approved his interim Socialist Cabinet by an overwhelming vote of confidence and listened to the new Premier speak. There was little

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partisanship in his words. "The antagonistic blocs that tend to take shape in France are the reduced reflection of the antagonistic blocs that tend to persist in the world. Since we have a clearer view of world affairs than of national affairs, outside France we try to unite and conciliate for common action because we realize the peace of the world depends on it. Let us make the same effort within our country."

The Domestic Scene

Five years to a day from our entrance into World War II, the country breathed a sigh of relief. The coal strike which had threatened the entire nation with economic collapse, unemployment, lack of transportation and cold furnaces was over, at least temporarily. . . . The navy was going ahead with plans for exploration of the Antarctic. One of seven nations hoping to probe the mineral resources of the region, as well as train personnel, test equipment, explore the wastes and consider possible operational techniques, our 4,000-man, 13-ship Task Force 68, labeled Operation High Jump, got under way on December 2, 1946. . . . Businessmen viewed the new year with lifted spirits. The Christmas shopping spree had created record sales throughout the entire country. . . . Underneath the holiday spirit lurked the fear of rising living costs. According to the Bureau of Labor Statistics the past year had seen the cost of living rise 35.9 per cent in Omaha—the greatest rise in the nation. . . . With the higher cost of living came new demands for higher wages by organized labor. . . . Politicians circled warily seeking legislative programs which would protect the people from disastrous strikes. . . . On the diplomatic front a new Ambassador to the Court of St. James accepted his official appointment. At 64, O. Max Gardiner, Under Secretary of the Treasury since last February and an articulate and well-informed advocate of American democratic capitalism, will meet his severest diplomatic and economic test when he travels to Laborite-ruled London in 1947.

"A MONSTROUS THING"

The threatened total of 5,000,000 jobless by New Year's Day was averted when John L. Lewis, President of the United Mine Workers, called off the coal strike. In giving judgment on December 4, Judge T. Alan Goldsborough of the United States District Court had declared "This is not the act of a low lawbreaker, but is an evil, demoniac, monstrous thing that means hunger and cold and unemployment and destitution and disorganization of the social fabric; a threat to democratic government itself." The strike had already made some 250,000 workers in other industries idle. The nation's steel mills had banked their fires; the automobile assembly lines began closing down. The passenger service on railroads using coal-burning locomotives had been cut 50 per cent. A freight embargo had panicked department stores dependent on the pre-Christmas shopping rush.

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Dim-outs had darkened large cities. With the return-to-work pronouncement on December 7, the United States took heart. The embargo was lifted; the idle were recalled to work; lights in the cities were turned up and the wheels of industry moved once more. One million tons of steel would never reach the assembly lines because of the 17-day-old work-stoppage, nor would 25,000,000 tons of coal reach the winter-hungry furnaces of the nation. Labor, industry and government were watching each other like puppets ready to jerk to the master touch of the Supreme Court, to whom the United Mine Workers, fined $3,500,000, and John L. Lewis, fined $10,000, had appealed. In 1919, Calvin Coolidge sent a telegram to Samuel Gompers, President of the American Federation of Labor, on the conclusion of the Boston police strike which had threatened the capital city with robbery, violence and looting, "There is no right to strike against the public safety by anybody, anywhere, any time." Did these words still hold in 1947?

The strike had left three major factors in its wake: (1) the labor legislation programs which the Republicans and the Democrats are both determined to put through during the Eightieth Congress which started on January 3; (2) the wage demands which organized labor is making to keep up with the rising cost of living; and (3) the judicial aspects of the soft coal situation which will, in the near future, be settled by the Supreme Court, and which will determine the strength of the government in its fight to protect the people against disastrously injurious strikes by organized labor.

The coal strike was not the only labor-management dispute in progress during the pre-holiday season. In West Allis, a Milwaukee suburb, the Allis-Chalmers Company entered its eighth month of a strike called by Local 248 of the C.I.O. United Auto Workers. The company, sensing growing public indignation, continued to stand by its refusal to arbitrate union-shop, wage and grievance-procedure differences with the strikers. The 12,000 members of the union, viewing a barren Christmas and discouraged at their prolonged idleness, were revolting against the unyielding rule of their leaders. On the appeal of the President of the Local, Robert Buse, C.I.O. President Philip Murray ordered Wisconsin locals to help "financially and on the picket line." Riots followed, as imported pickets and local police clashed with 850 specially deputized police officers. Union members, continuing defiance of their leaders, warned they would ask the U.A.W. to remove Local 248's officials. Meanwhile, the company dug in for a winter stalemate.

The maritime strike, which continued on the Pacific coast longer than it did on the Atlantic and Gulf Coasts, brought real hardship and suffering to the 80,000 residents of the Territory of Alaska. Dependent on supplies of foodstocks ordered once yearly from the states, the region never received its orders of last May, which were about to be shipped when the first mari-

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time tie-up occurred early in September. The relatively brief walk-out in September was followed by a second one beginning October 1, and ending some 54 days later. Underfed, with babies lacking syrup and milk, and acute shortages of cereals, potatoes, rice, beans and all canned goods, the inhabitants were dependent on what goods could be flown in by air or brought in by truck along the Alaska highway. Seward, ordinarily the first city to receive supplies by boat, was the last to receive supplies by plane and truck. Acting Governor Lew Williams (representing Governor Ernest H. Gruening who was in Washington, D. C., seeking aid for the Territory's problem) was forced to declare a state of emergency in the city. Many workers were idle as well as hungry. Seventy-five per cent of the city's people are railroad workers or dock workers dependent on shipping for their weekly pay-checks. Alaskans had remained calm during the 14 months of Japanese plotting from the near-by Aleutian islands. They ceased to be calm during the maritime strike of the C.I.O. and the A.F.L.

A LABOR MERGER?

While separate unions fought to gain better wages and various other demands, organized labor contemplated new positions and new tactics which it felt might be needed in the national arena in the coming months. Fear of the injunction used by the government in its recent contest with Lewis has consolidated the forces of the C.I.O. and the A.F.L. in opposition to fur-

Burck, © 1946, The Chicago Times

"QUOTH THE RAVEN, 'NEVERMORE'"

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ther legal attempts to crush the union. In Atlantic City, delegates at the eighth convention of the C.I.O. adopted an amendment condemning the use of injunctions in labor disputes: "We condemn the action taken by the federal government in obtaining a sweeping injunction against the United Mine Workers of America. This is a clear violation of the Norris-La Guardia Act. No anti-labor injunctions can dispose of the problems now confronting workers who see their earnings shrink before the fast-rising cost of living. American democracy cannot tolerate any attempt to impose economic slavery through vicious anti-labor injunctions." And, at the same meeting the C.I.O., divided in its own ranks with pro-communists and bitter anti-communists, chose to compromise rather than face the future months impotently split into factions. Shelving the issue with the innocuous statement, "We resent and reject efforts of the Communist party or other political parties and their adherents to interfere in the affairs of the C.I.O. This convention serves notice that it will not tolerate such interference," the union re-elected Philip Murray, President of the C.I.O. for six years, as its President in the coming year. It then turned to the safe subject of increased wages in 1947, as well as political pressure against any Congressional attempt to curb the unions.

WAGES, PRICES AND PRODUCTION

By New Year's Day government controls had become figures and mandates of a by-gone era. Price Administrator Paul A. Porter had resigned on November 29, stating that plans for the liquidation of the agency were well under way and that he doubted if he could contribute further in that effort. On December 4, President Truman accepted the resignation of 40-year-old Wilson Watkins Wyatt, National Housing Expediter, stating that "The veteran's emergency housing program has successfully passed through the first phase. . . . The remainder of the program must now be faced within the framework of the government's announced policy of relaxing controls." On December 5, the resignation of John D. Small, Administrator of the Civilian Products Administration, was accepted. In his letter of resignation to the President, Mr. Small stated: "For the past several months we have had practically full employment. Production has been the highest in our peacetime history. For these reasons I believe that the industrial transition from war to peace is largely behind us." On December 12, President Truman supplanted the Office of War Mobilization and Reconversion, the Office of Price Administration, the Civilian Production Administration and the National Wage Stabilization Board with a new Office of Temporary Controls headed by Major General Philip B. Fleming, Federal Works Administrator. The new office will control the liquidation of remaining economic restraints.

Christmas sales were the biggest in the history of the nation. On November 29, Macy's department store in New York sold $1,472,000 worth of goods. In contrast to 1945, when New Englanders spent their time in churches being thankful over the ending of the world struggle

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ather than in stores buying presents for the relatives, sales showed an increase of 26.5. But many stores were staging pre-Christmas sales. Though ollar sales were going up, according to Standard and Poor's, unit sales ad declined from a high point of 172.6 last February to 158.3 in September. According to the commodity index of the Bureau of Labor Statistics, taking 1939 as 100), prices had risen from an index of 187.3 in January, 40.2 in July, 252.3 in October, to 300.4 in November.

Prices were going up, with an increase of 25 to 33 per cent expected n both rayon and nylon hosiery. Launderall prices were up $20 per unit; General Electric had raised irons 1 per cent; refrigerators 12.5 per cent; washers 30 per cent. Car prices are steadily going up. A retail food index howed an increase of 23.6 per cent on October 15 above mid-June, which vas an increase of 80 per cent over the 1935-39 average.

Many establishments were considering Christmas bonuses to tide their workers over the higher-cost-of-living-period. In December, the C.I.O. nvited 130 newspaper men and publicists to a luncheon in Washington where the basis for the wage demands of the coming year was revealed in a report prepared for the union by Robert R. Nathan, former Assistant Director of Reconversion. The report stated that corporate profits had isen after taxes by 50 per cent, and that an increase of 23 per cent in weekly earnings—without increase in prices—will be required to bring real weekly earnings back to the January, 1945, level.

In consideration of the report, the United Auto Workers (C.I.O.) formulated demands among which was a basic 23½-cent an hour increase. The demands, if satisfied, will affect 1,000,000 workers and add $624,000,000 to the industry's payroll.

Industry countered through the National Association of Manufacturers: "the theory that wages can be increased while prices are held at present levels . . . is false." President of General Motors Charles E. Wilson said: "If the workers gain a 25 per cent increase . . . then prices of General Motors cars and trucks will go up 25 per cent."

It was obvious in the first month of 1947, that wages, prices and production would still be major inter-related problems facing the new Congress in Washington.

THE POLITICAL ARENA

The closing weeks of 1946 saw the Democratic and Republican parties planning for the new Congressional session. The Republicans were split over the labor issue in a battle between conservative and liberal elements. The Democrats were determined to be first in declaring plans for amended labor legislation.

In New York the police were still working over the case of one Joseph Scottoriggio, an election official who had had the misfortune to be working in opposition to Representative Vito Marcantonio, favorite of 12,000 P.A.C., I.C.C.A.S.P., C.I.O. and A.L.P. left-wingers. Scottoriggio was beaten so brutally on election day that he died six days later.

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FORUM FEATURES

Allison Bunkley, author of "Don't Label Argentina!", received his Master's Degree from Princeton University in 1946 and has been Instructor of Spanish and History and Fellow in History at Princeton. At present he is in Buenos Aires on a Government Research Fellowship completing a biography of Domingo Faustino Sarmiento, Argentina's great democratic leader of the past century. Mr. Bunkley presents a sympathetic case for Argentina in his article which appears on page 16, a case which we believe many of our readers will find stimulating.

FORUM is pleased to present many new names on our list of contributors this month. Among them is William Woodward, co-editor of the Proportional Representation Department of the **National Municipal Review.** A member of the Citizens Union Committee on Legislation, and lawyer for the Bell Telephone Company. Mr. Woodward is also author of a forthcoming book on the principles of effective democratic government.

Judge Nochem Winnet, of the Municipal Court of Philadelphia, presents the opposing viewpoint to Paul Tappan's article which appeared in the December issue of FORUM, "The Child in Court." Those who have read Professor Tappan's article will read with particular interest "The Juvenile Court," the reply of a man with many years' experience in the field.

Norman Lobsenz, author of "The Legal Dilemma," was formerly with a New York newspaper, temporarily with the British Ministry of Information and the O. W. I., and at present is writing non-fiction features which have been published in **Collier's, This Week, Coronet** and **Pageant. Mr. Lobsenz** first became interested in low cost legal aid from discussions with William S. Weiss, his father-in-law and originator of the "legal clinic." FORUM in 1938 was the first magazine to publish the story of Mr. Weiss' work.

FORUM takes pleasure in presenting in January a literary essay by **Robert Francis,** author of "Country Comment," which appears each month in FORUM. We think you will find "Thoreau's Mask of Serenity" both interesting and valuable reading.

Don't forget to send us your opinions for OUR ROSTRUM! It is your platform; let us hear from you this month!

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